

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2617

By: Perry

COMMITTEE SUBSTITUTE

An Act relating to oil production and reporting; amending 68 O.S. 2001, Section 1013, which relates to transportation of oil and related substances; modifying provisions; imposing fee on transporters; providing for apportionment of fee to Oil Theft and Reclamation Fraud Prevention Training Fund; amending 68 O.S. 2001, Section 1015.1, which relates to oil reclaimers; modifying provisions imposing fee on oil reclaimers; providing for apportionment of certain portion of fee amount to Oil Theft and Reclamation Fraud Prevention Training Fund; creating revolving fund; specifying sources of revenue; providing for use of revolving fund; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1013, is amended to read as follows:

Section 1013. A. The Tax Commission is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing all reports required and otherwise necessary to the enforcement of this article. The Tax Commission, at its option and discretion, may require a sufficient bond from any person charged with the making and filing of reports and the payment of the taxes levied pursuant to the provisions of this article. Said bond shall run to the State of Oklahoma and shall be conditioned upon the making and filing of reports as required by law, upon compliance with the rules and

regulations of the Tax Commission, and for the prompt payment of all taxes due the state by virtue of the provisions of this article.

B. 1. Every person engaged in the transportation or hauling of petroleum oil, tank bottoms, pit oil, condensate, distillate, or other liquid hydrocarbons from which petroleum crude oil or other product subject to gross production tax is extracted, except where the transportation is by railroad tank car or by pipeline, shall secure a license and permit before engaging in such activity and shall post a surety bond with the Tax Commission. Said bond shall run to the State of Oklahoma and shall be conditioned upon compliance with the provisions of this article, the rules and regulations of the Tax Commission promulgated thereto. Said permits shall expire three (3) years after the date of issuance or renewal thereof and shall become invalid on said date unless renewed. The fee for issuance of such permit or renewal thereof shall be determined by the Commission but shall not exceed One Hundred Fifty Dollars (\$150.00). A permit issued prior to the effective date of this act shall be valid until it expires. In addition to the fees authorized by this subsection, there shall be an annual fee in the amount of Ten Dollars (\$10.00) per vehicle owned by each entity subject to the registration requirements of this subsection. The fee shall be apportioned to the Oil Theft and Reclamation Fraud Prevention Training Fund.

The application for and acceptance of the permit required by this section and any renewal thereof shall be conclusively deemed consent by the applicant for the stopping of the vehicle transporting said hydrocarbons, and the inspection of the load ticket and the cargo pursuant to Section 152.6 of Title 74 of the Oklahoma Statutes.

2. Every person operating a tank truck or other conveyance except railroad tank cars or pipelines transporting any of the products described in paragraph 1 of this subsection shall have in

his possession at all times during such transportation an invoice or load ticket showing, in addition to other information thereon, the following:

- a. date,
- b. truck permit number,
- c. name of company from whom trucker obtained product being transported,
- d. lease name and/or number,
- e. county,
- f. approximate number of barrels being transported,
- g. name of product,
- h. destination, and
- i. signature of truck driver.

The invoice or load ticket shall be made in triplicate, one copy of which shall be retained by the company or person authorizing such transportation, one copy of which shall be retained by the person transporting such product, and one copy of which shall be furnished to the person storing, receiving, renting, or purchasing such product.

3. Any person transporting oil or gas or any deleterious substance as such term is defined by Section 139 of Title 52 of the Oklahoma Statutes shall maintain a log containing the name of the agent of the company or person owning the product which authorized the transportation.

4. All such copies of said log and invoices or load tickets shall be retained for a period of three (3) years. All copies of such log and invoices or load tickets shall be subject to inspection by the Tax Commission or its representatives or the Oklahoma Bureau of Investigation at all times during transit of such product or while same is stored or in the possession of any such person.

5. A member of the Oklahoma State Bureau of Investigation or the Oklahoma Highway Patrol, any sheriff, any salaried deputy

sheriff, any Oklahoma Corporation Commission inspector or enforcement officer, shall have the authority to stop and inspect any invoices or load tickets at all times during transit of any such product. If a person transporting or hauling petroleum oil, tank bottoms, pit oil, condensate, distillate, or other liquid hydrocarbons from which petroleum crude oil or any other product subject to gross production tax is extracted, fails to produce the invoice or load ticket as required pursuant to the provisions of this section upon proper request therefor, or if the invoice or load ticket does not contain the required information, the product being transported, together with the tank truck or other conveyance, may be seized and held until a proper invoice or load ticket is furnished and the information thereon is verified by the seizing authority.

In the event a proper invoice or load ticket is not furnished the seizing authority within forty-eight (48) hours after such seizure, the seizing authority shall then deliver possession of such seized property to the sheriff of the county in which it was seized, who shall issue his receipt therefor, and inform the Tax Commission which shall declare the gross production tax, together with the amount due pursuant to the provisions of Section 1003 of this article, due immediately on the product so seized, and shall assess the same together with a penalty equal to the amount of said tax due. If the tax, penalty, additional amount due, and all accrued sheriff's costs are not paid to such sheriff within thirty (30) days after delivery to him, he will proceed to sell, without valuation as for taxes due the state, such seized property and distribute the proceeds of such sale in the same manner as is now provided for sales upon execution.

6. Every tank truck or other conveyance except railroad tank cars or pipelines used in transporting any of the products named in this section must have painted or affixed by decalcomania process in

a conspicuous place in at least four-inch letters and figures the company name and Gross Production Transport Permit number which permit number shall be preceded by the initials "O.T.C."

C. Any person transporting deleterious substances shall have in his possession at all times during such transportation an invoice or load ticket complying with paragraph 2 of subsection B of this section.

D. The application for and acceptance of the permit or license required by Section 177.2 of Title 47 of the Oklahoma Statutes shall be conclusively deemed consent by the applicant for the stopping of the vehicle transporting said substances, and the inspection of the load ticket and the cargo by the Oklahoma Highway Patrol, sheriffs, or by agents of the Oklahoma State Bureau of Investigation or Federal Bureau of Investigation pursuant to Section 152.6 of Title 74 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1015.1, is amended to read as follows:

Section 1015.1 A. All persons operating reclaiming plants, or reclaiming oil, upon which there is paid or payable gross production tax, shall secure a permit which shall be in the form of a license from the Tax Commission, by making application upon forms prescribed by it. The Tax Commission may, at its option and discretion, require a bond from any such person before the issuance of such permit. Any bond required herein by the Tax Commission shall be for the purpose of indemnifying the State of Oklahoma against loss by reason of nonpayment of gross production tax upon any oil reclaiming plants. In all cases where such permit is not secured, the State of Oklahoma may institute, upon relation of the Tax Commission, suit to restrain such person from operating such reclaiming plant, until such permit is secured.

B. 1. Said permits shall expire three (3) years after the date of issuance or renewal thereof and shall become invalid on said date

unless renewed. The fee for issuance of such permit or renewal thereof shall be ~~determined by the Commission but shall not exceed One Hundred Fifty Dollars (\$150.00)~~ One Hundred Seventy-five Dollars (\$175.00). Twenty-five Dollars (\$25.00) of the permit fee amount shall be apportioned to the Oil Theft and Reclamation Fraud Prevention Training Fund.

2. A permit issued prior to the effective date of this act shall be valid until it expires.

C. The application for and acceptance of the permit required by subsection A of this section and any renewal thereof shall be conclusively deemed consent by the applicant for the inspections of the property of the applicant by the Oklahoma Tax Commission as authorized by Section 206 of this title and by the Oklahoma State Bureau of Investigation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 152.3A of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Investigation, to be designated the Oil Theft and Reclamation Fraud Prevention Training Fund. The Fund shall be a continuing fund not subject to fiscal year limitations, and shall consist of such monies as may be apportioned to the fund as provided by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Bureau for the exclusive purpose of training the personnel of the Bureau and district attorneys in order to enforce and administer the laws governing and regulating the production, storage, purchase and payment of taxes associated with the extraction of hydrocarbons within the state. Expenditures from the Fund shall be made upon warrants issued by the State Treasurer as prescribed by law with the Director of the Office of State Finance for approval and payment.

SECTION 4. This act shall become effective July 1, 2004.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-2-8477            MAH            02/15/04