

CS for SB 1520

THE STATE SENATE  
Monday, February 23, 2004

Committee Substitute for  
Senate Bill No. 1520

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1520 - By: ROZELL of the Senate and WILSON of the House.

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 1110, as amended by Section 2, Chapter 417, O.S.L. 2002 (47 O.S. Supp. 2003, Section 1110), which relates to motor vehicle liens; expanding method of perfecting liens; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 1110, as amended by Section 2, Chapter 417, O.S.L. 2002 (47 O.S. Supp. 2003, Section 1110), is amended to read as follows:

Section 1110. A. 1. Except for a security interest in vehicles held by a dealer for sale or lease, a vehicle registered by a federally recognized Indian Tribe as provided in subsection G of this section and a vehicle being registered in this state which was previously registered in another state and which title contains the name of a secured party on the face of the other state certificate or title, a security interest in a vehicle as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form, and the existing certificate of title, if any, or application for a certificate of title and manufacturer's certificate of origin containing the name

1 and address of the secured party and the date of the security  
2 agreement and the required fee are delivered to the Tax Commission  
3 or to a motor license agent. As used in this section, the term  
4 "dealer" shall be defined as provided in Section 1-112 of this title  
5 and the term "security interest" shall be defined as provided in  
6 paragraph (37) of Section 1-201 of Title 12A of the Oklahoma  
7 Statutes. When a vehicle title is presented to a motor license  
8 agent for transferring or registering and the documents reflect a  
9 lien holder, the motor license agent shall perfect the lien pursuant  
10 to subsection G of Section 1105 of this title. For the purposes of  
11 this section, the term "vehicle" shall not include special mobilized  
12 machinery, machinery used in highway construction or road material  
13 construction and rubber-tired road construction vehicles including  
14 rubber-tired cranes. The filing and duration of perfection of a  
15 security interest, pursuant to the provisions of Title 12A of the  
16 Oklahoma Statutes, including, but not limited to, Section 1-9-311 of  
17 Title 12A of the Oklahoma Statutes, shall not be applicable to  
18 perfection of security interests in vehicles as to which a  
19 certificate of title may be properly issued by the Tax Commission,  
20 except as to vehicles held by a dealer for sale or lease and except  
21 as provided in subsection D of this section. In all other respects  
22 Title 12A of the Oklahoma Statutes shall be applicable to such

1 security interests in vehicles as to which a certificate of title  
2 may be properly issued by the Tax Commission.

3 2. Whenever a person creates a security interest in a vehicle,  
4 the person shall surrender to the secured party the certificate of  
5 title or the signed application for a new certificate of title, on  
6 the form prescribed by the Tax Commission, and the manufacturer's  
7 certificate of origin. The secured party shall deliver the lien  
8 entry form and the required lien filing fee within twenty-five (25)  
9 days as provided hereafter with certificate of title or the  
10 application for certificate of title and the manufacturer's  
11 certificate of origin to the Tax Commission or to a motor license  
12 agent. If the lien entry form, the lien filing fee and the  
13 certificate of title or application for certificate of title and the  
14 manufacturer's certificate of origin are delivered to the Tax  
15 Commission or to a motor license agent within twenty-five (25) days  
16 after the date of the lien entry form, perfection of the security  
17 interest shall begin from the date of the execution of the lien  
18 entry form, but otherwise, perfection of the security interest shall  
19 begin from the date of the delivery to the Tax Commission or to a  
20 motor license agent.

21 3. a. For each security interest recorded on a certificate  
22 of title, or manufacturer's certificate of origin,  
23 such person shall pay a fee of Ten Dollars (\$10.00),

1           which shall be in addition to other fees provided for  
2           in the Oklahoma Vehicle License and Registration Act.  
3           Upon the receipt of the lien entry form and the  
4           required fees with either the certificate of title or  
5           an application for certificate of title and  
6           manufacturer's certificate of origin, a motor license  
7           agent shall, by placement of a clearly distinguishing  
8           mark, record the date and number shown in a  
9           conspicuous place, on each of these instruments. Of  
10          the ten-dollar fee, the motor license agent shall  
11          retain Two Dollars (\$2.00) for recording the security  
12          interest lien.

13          b.   It shall be unlawful for any person to solicit, accept  
14          or receive any gratuity or compensation for acting as  
15          a messenger and for acting as the agent or  
16          representative of another person in applying for the  
17          recording of a security interest or for the  
18          registration of a motor vehicle and obtaining the  
19          license plates or for the issuance of a certificate of  
20          title therefor unless the Tax Commission has appointed  
21          and approved the person to perform such acts; and  
22          before acting as a messenger, any such person shall  
23          furnish to the Tax Commission a surety bond in such

1 amount as the Tax Commission shall determine  
2 appropriate.

3 4. The certificate of title or the application for certificate  
4 of title and manufacturer's certificate of origin with the record of  
5 the date of receipt clearly marked thereon shall be returned to the  
6 debtor together with a notice that the debtor is required to  
7 register and pay all additional fees and taxes due within thirty  
8 (30) days from the date of purchase of the vehicle.

9 5. Any person creating a security interest in a vehicle that  
10 has been previously registered in the debtor's name and on which all  
11 taxes due the state have been paid shall surrender the certificate  
12 of ownership to the secured party. The secured party shall have the  
13 duty to record the security interest as provided in this section and  
14 shall, at the same time, obtain a new certificate of title which  
15 shall show the secured interest on the face of the certificate of  
16 title.

17 6. The lien entry form with the date and assigned number  
18 thereof clearly marked thereon shall be returned to the secured  
19 party. If the lien entry form is received and authenticated, as  
20 herein provided, by a motor license agent, the agent shall make a  
21 report thereof to the Tax Commission upon the forms and in the  
22 manner as may be prescribed by the Tax Commission.

1           7. The Tax Commission shall have the duty to record the lien  
2 upon the face of the certificate of title issued at the time of  
3 registering and paying all fees and taxes due on the vehicle.

4           B. 1. A secured party shall, within seven (7) business days  
5 after the satisfaction of the security interest, furnish directly or  
6 by mail a release of a security interest to the Tax Commission and  
7 mail a copy thereof to the last-known address of the debtor. If the  
8 security interest has been satisfied by payment from a licensed used  
9 motor vehicle dealer to whom the motor vehicle has been transferred,  
10 the secured party shall also, within seven (7) business days after  
11 such satisfaction, mail an additional copy of the release to the  
12 dealer. If the secured party fails to furnish the release as  
13 required, the secured party shall be liable to the debtor for a  
14 penalty of One Hundred Dollars (\$100.00) and, in addition, any loss  
15 caused to the debtor by such failure.

16           2. Upon release of a security interest the owner may obtain a  
17 new certificate of title omitting reference to the security  
18 interest, by submitting to the Tax Commission or to a motor license  
19 agent:

- 20           a. a release signed by the secured party, an application  
21           for new certificate of title and the proper fees, or  
22           b. by submitting to the Tax Commission or the motor  
23           license agent an affidavit, supported by such

1 documentation as the Tax Commission may require, by  
2 the owner on a form prescribed by the Tax Commission  
3 stating that the security interest has been satisfied  
4 and stating the reasons why a release cannot be  
5 obtained, an application for a new certificate of  
6 title and the proper fees.

7 Upon receiving such affidavit that the security interest has been  
8 satisfied, the Tax Commission shall issue a new certificate of title  
9 eliminating the satisfied security interest and the name and address  
10 of the secured parties who have been paid and satisfied. The Tax  
11 Commission shall accept a release of a security interest in any form  
12 that identifies the debtor, the secured party, and the vehicle, and  
13 contains the signature of the secured party. The Tax Commission  
14 shall not require any particular form for the release of a security  
15 interest.

16 The words "security interest" when used in the Oklahoma Vehicle  
17 License and Registration Act do not include liens dependent upon  
18 possession.

19 C. The Tax Commission shall file and index certificates of  
20 title so that at all times it will be possible to trace a  
21 certificate of title to the vehicle designated therein, identify the  
22 lien entry form, and the names and addresses of secured parties, or  
23 their assignees, so that all or any part of such information may be

1 made readily available to those who make legitimate inquiry of the  
2 Tax Commission as to the existence or nonexistence of security  
3 interest in the vehicle.

4 D. 1. Any security interest in a vehicle properly perfected  
5 prior to July 1, 1979, may be continued as to its effectiveness or  
6 duration as provided by Sections 1-9-501 and 1-9-515 of Title 12A of  
7 the Oklahoma Statutes, or may be terminated, assigned or released as  
8 provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of  
9 the Oklahoma Statutes, as fully as if this section had not been  
10 enacted, or, at the option of the secured party, may also be  
11 perfected under this section, and, if so perfected, the time of  
12 perfection under this section shall be the date the security  
13 interest was originally perfected under the prior law.

14 2. Upon request of the secured party, the debtor or any other  
15 holder of the certificate of title shall surrender the certificate  
16 of title to the secured party and shall do such other acts as may be  
17 required to perfect the security interest under this section.

18 E. If a manufactured home is permanently affixed to real  
19 estate, the original document of title may be surrendered to the Tax  
20 Commission or a motor license agent for cancellation. When the  
21 document of title is surrendered, the owner shall provide the legal  
22 description or the appropriate tract or parcel number of the real  
23 estate and other information as may be required on a form provided

1 by the Tax Commission. The Tax Commission may not cancel a document  
2 of title if a lien has been registered or recorded. The Tax  
3 Commission or motor license agent shall notify the owner and any  
4 lienholder that the title has been surrendered to the Tax Commission  
5 and that the Tax Commission may not cancel the title until the lien  
6 is released. Such notification shall include a description of the  
7 lien and such notification to the owner shall be accompanied by the  
8 return of title surrendered. Permanent attachment to real estate  
9 does not affect the validity of a lien recorded or registered with  
10 the Tax Commission before the document of title is cancelled  
11 pursuant to this section. The rights of a prior lienholder pursuant  
12 to a security agreement or the provisions of a credit transaction  
13 and the rights of the state pursuant to a tax lien are preserved.  
14 The Tax Commission or motor license agent shall forward the  
15 information to the county assessor of the county where the real  
16 estate is located and indicate whether the original document of  
17 title has been canceled. A fee of Five Dollars (\$5.00) shall  
18 accompany the application for cancellation of title. When the fee  
19 is paid by a person making an application directly with the Tax  
20 Commission, the fee shall be deposited in the Oklahoma Tax  
21 Commission Revolving Fund. A fee paid to a motor license agent  
22 shall be retained by the agent. A security interest in a  
23 manufactured home perfected pursuant to this section shall have

1 priority over a conflicting interest of a mortgagee or other lien  
2 encumbrancer, or the owner of the real property upon which the  
3 manufactured home became affixed or otherwise permanently attached.  
4 The holder of the security interest in the manufactured home, upon  
5 default, may remove the manufactured home from such real property.  
6 The holder of the security interest in the manufactured home shall  
7 reimburse the owner of the real property who is not the debtor and  
8 who has not otherwise agreed to access the real property for the  
9 cost of repair of any physical injury to the real property, but  
10 shall not be liable for any diminution in value to the real property  
11 caused by the removal of the manufactured home, trespass, or any  
12 other damages caused by the removal. The debtor shall notify the  
13 holder of the security interest in the manufactured home of the  
14 street address, if any, and the legal description of the real  
15 property upon which the manufactured home is affixed or otherwise  
16 permanently attached and shall sign such other documents, including  
17 any appropriate mortgage, as may reasonably be requested by the  
18 holder of such security interest.

19 F. In the case of motor vehicles or trailers, notwithstanding  
20 any other provision of law, a transaction does not create a sale or  
21 security interest merely because it provides that the rental price  
22 is permitted or required to be adjusted under the agreement either

1 upward or downward by reference to the amount realized upon sale or  
2 other disposition of the motor vehicle or trailer.

3 G. A security interest in vehicles registered by a federally  
4 recognized Indian Tribe shall be deemed valid under Oklahoma law if  
5 validly perfected under the applicable tribal law and the lien is  
6 noted on the face of the tribal certificate of title.

7 SECTION 2. It being immediately necessary for the preservation  
8 of the public peace, health and safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

11 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-17-04 - DO PASS,  
12 As Amended and Coauthored.