STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2696: Ferguson

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 1105, as last amended by Section 4, Chapter 431, O.S.L. 2003 (47 O.S. Supp. 2003, Section 1105), which relates to motor vehicle registration; requiring certificate of title for trailers; requiring registration of trailers; providing for design of license plates; defining term; 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 47 O.S. 2001, Section 1105, as last amended by Section 4, Chapter 431, O.S.L. 2003 (47 O.S. Supp. 2003, Section 1105), is amended to read as follows:

Section 1105. A. As used in the Oklahoma Vehicle License and Registration Act:

1. "Salvage vehicle" means any vehicle which is within the last ten (10) model years and which has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value, as defined by Section 1111 of this title, immediately prior to the damage. For purposes of this section, actual repair costs shall only include labor and parts for actual damage to the suspension, motor, transmission, frame or unibody and designated structural components;

2. "Rebuilt vehicle" means any salvage vehicle which has been rebuilt and inspected for the purpose of registration and title;

3. "Flood-damaged vehicle" means a salvage or rebuilt vehicle which was damaged by flooding or a vehicle which was submerged at a

level to or above the dashboard of the vehicle and on which an amount of loss was paid by the insurer;

4. "Recovered-theft vehicle" means a salvage or rebuilt vehicle which was recovered from a theft; and

5. "Junked vehicle" means any vehicle which is incapable of operation or use on the highway, has no resale value except as a source of parts or scrap and has an eighty percent (80%) loss in fair market value.

B. The owner of every vehicle in this state shall possess a certificate of title as proof of ownership of such vehicle, except those vehicles registered pursuant to Section 1120 of this title and trailers registered pursuant to Section 1133 of this title, previously titled in another state and engaged in interstate commerce, and except as provided in subsection M of this section. <u>The owner of a trailer, as defined in subsection C of Section 2 of this act, in this state, which was purchased or the ownership was transferred after June 30, 2004, shall possess a certificate of title as proof of ownership of the trailer.</u> There shall be six types of certificates of title:

1. Original title for any motor vehicle which is not a remanufactured, salvage, rebuilt or junked vehicle;

2. Salvage title for any motor vehicle which is a salvage vehicle or is specified as a salvage vehicle or the equivalent thereof on a certificate of title from another state;

3. Rebuilt title for any motor vehicle which is a rebuilt vehicle;

4. Junked title for any motor vehicle which is a junked vehicle or is specified as a junked vehicle or the equivalent thereof on a certificate of title from another state;

5. Classic title for any motor vehicle, except a junked vehicle, which is twenty-five (25) model years or older; and

6. Remanufactured title for any vehicle which is a remanufactured vehicle.

Application for a certificate of title, whether the initial certificate of title or a duplicate, may be made to the Oklahoma Tax Commission or any motor license agent. When application is made with a motor license agent, the application information shall be transmitted either electronically or by mail to the Tax Commission by the motor license agent. If the application information is transmitted electronically, the motor license agent shall forward the required application along with evidence of ownership, where required, by mail. Where the transmission of application information cannot be performed electronically, the Tax Commission is authorized to provide postage paid envelopes to motor license agents for the purpose of mailing the application along with evidence of ownership, where required. The Tax Commission shall upon receipt of proper application information issue an Oklahoma certificate of title. The certificates may be mailed to the applicant. Upon issuance of a certificate of title, the Tax Commission shall provide the appropriate motor license agent with confirmation of such issuance.

C. 1. The application for certificate of title shall be upon a blank form furnished by the Tax Commission, containing:

a. a full description of the vehicle,

b. the manufacturer's serial or other identification number,

c. the motor number and the date on which first sold by the manufacturer or dealer to the owner,

d. any distinguishing marks,

e. a statement of the applicant's source of title,

f. any security interest upon the vehicle, and

g. such other information as the Commission may require.

2. The application for a certificate of title for a vehicle which is within the last seven (7) model years shall require a declaration as to whether the vehicle has been damaged by collision or other occurrence and whether the vehicle has been recovered from theft and the extent of the damage to the vehicle. The declaration shall be made by the owner of a vehicle if:

a. the vehicle has been damaged or stolen,

b. the owner did or did not receive any payment for the loss from an insurer, or

c. the vehicle is titled or registered in a state that does not classify the vehicle or brand the title because of damage to or loss of the vehicle similar to the classifications or brands utilized by this state.

The declaration shall be based upon the best information and knowledge of the owner and shall be in addition to the requirements specified in paragraph 1 of this subsection. The Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this paragraph without the required declaration, completed and signed by the owner of the vehicle. Upon receipt of an application without the properly completed declaration, the Tax Commission shall return the application to the applicant with notice that the title may not be issued without the required declaration. Nothing in this paragraph shall prohibit the Tax Commission from recognizing the type of or brand on a title or other ownership document issued by another state or the inspection conducted in another state and issuing the appropriate certificate of title for the vehicle.

3. The certificate of title shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print,

e. void background, and

f. color coding.

4. Each title issued pursuant to the provisions of the Oklahoma Vehicle License and Registration Act shall be color coded as determined by the Tax Commission.

5. The certificate of title shall be of such size and design and color as the Tax Commission may direct pursuant to the provisions of this section. The title shall be on colored paper or other material as designated by the Tax Commission and be of such intensity or hue as will allow easy identification as to whether the title is an original title, a salvage title, a rebuilt title, remanufactured title, or a junked title. The type of title shall be identified on the front of the certificate of title. The original title, rebuilt title, remanufactured title, or classic title shall be identified by the word "Original", "Rebuilt", “Remanufactured” or "Classic" printed in the upper right quadrant of the certificate of title, in the space which is currently captioned "type of title".

D. 1. To obtain an original certificate of title for a vehicle that is being registered for the first time in this state which has not been previously registered in any other state, the applicant shall be required to deliver, as evidence of ownership, a manufacturer's certificate of origin properly assigned by the manufacturer, distributor, or dealer licensed in this or any other state shown thereon to be the last transferee to the applicant upon a form to be prescribed and approved by the Tax Commission. A manufacturer's certificate of origin shall contain:

a. the manufacturer's serial or other identification number,

b. date on which first sold by the manufacturer to the dealer,

c. any distinguishing marks including model and the year same was made,

d. a statement of any security interests upon the vehicle, and

e. such other information as the Tax Commission may require.

2. The manufacturer's certificate of origin shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print, and

e. void background.

E. In the absence of a dealer's or manufacturer's number, the Tax Commission may assign such identifying number to the vehicle, which shall be permanently stamped, burned or pressed or attached into the vehicle, and a certificate of title shall be delivered to the applicant upon payment of all fees and taxes, and the remaining copies shall be permanently filed and indexed by the Tax Commission. The Tax Commission shall assign an identifying number to any rebuilt vehicle if the vehicle identification number displayed on the rebuilt vehicle does not accurately describe the vehicle as rebuilt. The motor license agent, at the time of inspection of the rebuilt vehicle pursuant to Section 1111 of this title, shall identify the make, model, and year for the body to accurately describe the rebuilt vehicle. At the time of the inspection, an appropriate identifying number shall be permanently stamped, burned, pressed, or attached on the rebuilt vehicle. The assigned identifying number shall be recorded on the certificate of title for the rebuilt vehicle. The dealer's or manufacturer's vehicle identification

number on the rebuilt vehicle shall be preserved in the computer files of the Tax Commission for at least five (5) years.

F. When registering for the first time in this state a vehicle which was not originally manufactured for sale in the United States, to obtain a certificate of title, the Tax Commission shall require the applicant to deliver:

1. As evidence of ownership, if the vehicle has not previously been titled in the United States, the documents constituting valid proof of ownership in the country in which the vehicle was originally purchased, together with a notarized translation of any such documents; and

2. As evidence of compliance with federal law, copies of the bond release letters for the vehicle issued by the United States Environmental Protection Agency and the United States Department of Transportation, together with a receipt issued by the Internal Revenue Service indicating that the applicable federal gas guzzler tax has been paid.

The Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this paragraph without the required documentation from agencies of the United States and evidence of ownership. Upon receipt of an application without the required documentation, the Tax Commission shall return the application to the applicant with notice that the certificate of title may not be issued without the required documentation. Nothing in this paragraph shall prohibit the Tax Commission from issuing certificates of title for antique or classic vehicles not driven upon the public streets, roads, or highways.

G. When registering in this state a vehicle which was titled in another state and which title contains the name of a secured party on the face of the other state certificate of title, or such state certificate is being held by the secured party in that state or any other state, the Tax Commission or the motor license agent shall

complete a lien entry form as prescribed by the Tax Commission. The owner of such vehicle shall file an affidavit with the Tax Commission or the motor license agent stating that title to the vehicle is being held by a secured party has not been issued pursuant to the laws of the state where titled, and that there is an existing lien or encumbrance on the vehicle. The current name and address of the secured party or lienholder shall also be stated in the affidavit. The form of the affidavit shall be prescribed by the Tax Commission and contain any other information deemed necessary by the Tax Commission. A statement of the lien or encumbrance shall be included on the Oklahoma certificate of title and the lien or encumbrance shall be deemed continuously perfected as though it had been perfected pursuant to Section 1110 of this title. For completing the lien entry form and recording the security interest on the certificate of title, the Tax Commission or the motor license agent shall collect a fee of Three Dollars ($3.00) which shall be in addition to other fees provided by the Oklahoma Vehicle License and Registration Act. The fee, if collected by the motor license agent pursuant to this subsection, shall be retained by the motor license agent.

H. The charge for each certificate of title issued, except for junked titles as defined in paragraph 4 of subsection B of this section, shall be Eleven Dollars ($11.00), which charge shall be in addition to any other fees or taxes imposed by law for such vehicle. One Dollar ($1.00) of each such charge shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. However, the charge shall not apply to any vehicle which is to be registered in this state pursuant to the provisions of Section 1120 or 1133 of this title and which was registered in another state at least sixty (60) days prior to the time it is required to be registered in this state.

I. The vehicle identification number of a junked vehicle shall be preserved in the computer files of the Tax Commission for a period of not less than five (5) years. The charge of junked titles as defined in paragraph 4 of subsection B of this section shall be Four Dollars ($4.00). The fee remitted to the Tax Commission shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

J. If a vehicle is sold to a resident of another state, destroyed, dismantled, or ceases to be used as a vehicle, the owner shall immediately notify the Tax Commission. Absent evidence to the contrary, failure to notify the Tax Commission shall be prima facie evidence that the vehicle has been in continuous operation in this state.

K. If a vehicle is stolen, the owner shall immediately notify the appropriate law enforcement agency. Immediately after receiving such notification, the law enforcement agency shall notify the Tax Commission.

L. No title for an out-of-state vehicle, except any commercial truck or truck-tractor registered pursuant to Section 1120 of this title which is engaged in interstate commerce or any trailer or semitrailer registered pursuant to Section 1133 of this title which is engaged in interstate commerce, shall be issued without an inspection of such vehicle and payment of a fee of Four Dollars ($4.00) for such inspection; provided, the Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall include a comparison of the vehicle identification number on the vehicle with the number recorded on the ownership records and the recording of the actual odometer reading on the vehicle. The four-dollar fee shall be collected by the motor license agent or Commission when the title is issued. The motor license agent shall retain Two Dollars ($2.00). The remaining Two Dollars ($2.00) shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

The Tax Commission may allow the inspection to be performed at a location out-of-state by another state's department of motor vehicles or state police.

M. No title for any out-of-state vehicle offered for sale at salvage pools, salvage disposal sales, or an auction, or by a dealer or a licensed automotive dismantler and parts recycler, shall be issued without an inspection to compare the vehicle identification number on the vehicle with the number recorded on the ownership record and to record the actual odometer reading on the vehicle. Upon request of the seller, person or entity conducting an auction, dealer or licensed dismantler, the inspection shall be conducted at the location or place of business of the sale, auction, dealer, or the dismantler. The inspection shall be conducted by any motor license agent or a duly authorized employee thereof; provided, if the vehicle identification number on the vehicle offered for sale at salvage pools, salvage disposal sales or a classic or antique auction does not match the number recorded on the ownership record, the inspection may be conducted at the location of or place of business of such sale or auction by any state, county or city law enforcement officer. The Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall be certified upon forms prescribed by the Tax Commission. The name and other identification of the authorized person conducting the inspection shall be legibly printed or typed on the form. Prior to any inspection by any employee of a motor license agent, the motor license agent shall notify the Tax Commission of the name and any other identification information requested by the Tax Commission of the authorized person. A signature specimen of the authorized person shall be submitted to the Tax Commission by the employing motor license agent. If the authorization to inspect vehicles is withdrawn or the employer-employee relationship is terminated, the motor license agent, immediately, shall notify the Tax Commission and return any remaining inspection forms to the Tax Commission. The fee for the inspection shall be Four Dollars ($4.00). The motor license agent shall retain Three Dollars ($3.00) of the fee. Fees received by a motor license agent or an authorized employee thereof shall be handled and accounted for in the manner as prescribed by law for any other fees paid to or received by a motor license agent. Out-of-state vehicles brought into this state by a person licensed in another state to sell new or used vehicles to be sold within this state at a motor vehicle auction which is limited to dealer to dealer transactions shall not be required to be inspected, unless the vehicle is purchased by an Oklahoma dealer. Any person licensed in another state to sell new or used motor vehicles, who offers a motor vehicle for sale within this state at a motor vehicle auction which is limited to dealer to dealer transactions, shall not be

within the definition of "owner" in Section 1102 of this title, for purposes of Section 1101 et seq. of this title.

N. An out-of-state vehicle which has been rebuilt shall be inspected pursuant to the provisions of Section 1111 of this title. The Tax Commission shall train motor license agents in interpreting vehicle identification numbers to assure that it accurately describes the vehicle and to detect rollback or alteration of the odometer. Failure of a motor license agent to inspect the vehicle and make the required notations shall be a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00) for the first offense and Five Thousand Dollars ($5,000.00) for the second offense or subsequent offense, or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

O. The ownership of any vehicle which has been declared a total loss by an insurer because of theft shall be transferred to the insurer by a salvage title; provided, the ownership of any such vehicle which has been declared a total loss by an insurer licensed by the Oklahoma Insurance Department and maintaining a multi-state motor vehicle salvage processing center in this state shall be transferred to the insurer by a salvage title without the requirement of a visual inspection of the vehicle identification number by the insurer. Upon recovery of the vehicle, the ownership shall be transferred by an original title, salvage title, or junked title, as may be appropriate based upon an estimate of the amount of loss submitted by the insurer.

P. The owner of any vehicle which is incapable of operation or use on the public roads and has no resale value, except as parts, scrap or junk, may deliver the certificate of title to the vehicle to the Tax Commission for cancellation. Upon verification that any perfected lien against the vehicle has been released, the certificate of title shall be canceled without any fee, charge, or

cost required from the owner. The vehicle identification numbers on the certificates of title shall be preserved in the computer files of the Tax Commission for at least five (5) years from the date of cancellation of the certificate of title. The Tax Commission shall prescribe and provide an affidavit form to be completed by the owner of any vehicle for which the certificate of title is canceled. No title or registration shall subsequently be issued for a vehicle for which the certificate of title has been surrendered pursuant to this subsection. The Tax Commission shall prescribe a form for the transfer of ownership of a vehicle for which the certificate of title has been canceled.

Q. The owner of a vehicle which is not within the last ten (10) model years, not roadworthy and not capable of repair for operation or use on the roads and highways shall transfer the vehicle only upon a certificate of ownership prescribed by the Tax Commission, if the certificate of title to the vehicle is lost, has been canceled, or otherwise not available. The prescribed ownership form shall include the names and addresses of the buyer and seller, the driver license number or social security number of the seller, the make and model of the vehicle, and the public vehicle identification number. If there is no public vehicle identification number, the vehicle shall be inspected by a law enforcement officer to verify the absence of the number on the vehicle and the prescribed ownership form shall include a signed statement, by such officer, verifying the absence of the number.

The certificate of ownership shall be completed in triplicate. The buyer and seller shall each retain a copy. Within thirty (30) days of the transaction, the seller shall submit one copy to the Tax Commission or a motor license agent accompanied with a fee of Four Dollars ($4.00). One Dollar ($1.00) shall be retained by the motor license agent and Three Dollars ($3.00) shall be deposited in the Oklahoma Tax Commission Reimbursement Fund in the State Treasury.

Upon receipt of the certificate, the Tax Commission shall verify that any perfected lien upon the vehicle has been released. If the lien is not released, the Tax Commission shall mail notice of the transfer to the lienholder at the lienholder's last-known address. If a certificate of title has been issued, it shall be canceled and the vehicle identification number shall be preserved in the computer of the Tax Commission for at least five (5) years. The buyer of the vehicle may not be sued and shall not be liable for monetary damages to the lienholder, however, the vehicle shall be subject to a valid repossession by a lienholder.

R. The Tax Commission shall notify the chief administrative officer of the agency or department responsible for issuing motor vehicle certificates of title in each state in the United States of the types of motor vehicle certificate of title effective in Oklahoma on and after January 1, 1989.

S. When registering for the first time in this state a remanufactured vehicle which has not been registered in any other state since its remanufacture, before issuing a certificate of title, the Tax Commission shall require the applicant to deliver a statement of origin from the remanufacturer.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1134.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The owner of a trailer shall be required to register the trailer pursuant to the provisions of the Oklahoma Vehicle License and Registration Act. For each trailer registered pursuant to the provisions of this section, the annual license fee shall be Ten Dollars ($10.00).

B. The Oklahoma Tax Commission shall design appropriate license plates for all trailers registered pursuant to the provisions of this section. Such license plates shall be permanent in nature and shall be designed in such manner as to remain with the trailer for

the duration of the life span of the trailer or until the title is transferred.

C. As used in this section, “trailer” means a vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle. The term “trailer” shall not include a pole trailer, a commercial trailer, a rental trailer or a travel trailer.

SECTION 3. This act shall become effective July 1, 2004.

SECTION 4. 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.

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