STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1938

By: Corn of the Senate

and

Blackwell, Walker,
Sullivan, Hilliard, Sherrer
and Smithson of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending Section 3 of Enrolled House Bill No. 2895 of the 2nd Session of the 50th Oklahoma Legislature, which relates to custom harvesters; modifying restrictions relating to certain weigh stations; creating the Oklahoma Highway Remediation and Cleanup Services Act; providing short title; defining terms; stating powers and authority of Department of Environmental Quality; authorizing Board of Environmental Quality to promulgate certain rules; providing for regulation of certain highway remediation and cleanup services; providing for license fees and annual renewal; requiring Department to distribute certain list of licensees; authorizing the Department to take certain administrative actions for violations; providing for fees and fines to be deposited in certain fund; requiring the Department to enforce provisions of act; authorizing persons to contact remediation service providers of choice; stating exception; 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 Section 3 of Enrolled House Bill No. 2895 of the 2nd Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 3. ~~No~~ A portable ~~or stationary~~ scale used at any location other than an official weigh station by the Department of Public Safety or the ~~Oklahoma~~ Corporation Commission to weigh any vehicle ~~may~~ transporting grain shall not be located within two (2)

highway miles of any commercial grain elevator. This section shall not apply if the vehicle is:

1. Involved in a collision;

2. Being subjected to a Commercial Vehicle Safety Alliance (CVSA) inspection by the Department of Public Safety; or

3. Operated on any highway of the national defense highway system.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-401 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 9 of this act shall be known and may be cited as the “Oklahoma Highway Remediation and Cleanup Services Act”.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-402 of Title 27A, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Highway Remediation and Cleanup Services Act:

1. "Highway remediation and cleanup service" means the removal of cargo involved in and the containment, removal or remediation of spills occurring as the result of a collision involving a truck, truck-tractor, trailer, or any combination thereof;

2. "Executive Director" means the Executive Director of the Department of Environmental Quality;

3. "Department" means the Department of Environmental Quality; and

4. "Operator" means any person owning, operating or engaging in a highway remediation and cleanup service.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-403 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Environmental Quality shall have the power and authority to license, supervise, govern and regulate highway

remediation and cleanup services and highway remediation and cleanup service operators in this state.

B. The Environmental Quality Board is authorized to adopt rules as necessary to implement the provisions of this act. The rules shall state the requirements for facilities, for storage of vehicles, the records to be kept by operators and liability insurance and other insurance or bonding requirements in such sums and with such provisions as the Department deems necessary to adequately protect the interests of the public. The rules may address such other matters as the Board deems necessary for the protection of the public.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-404 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. To be licensed pursuant to this act, a person, firm, corporation or other entity shall meet the following requirements:

1. Principal business facilities are located within Oklahoma;

2. Tow trucks are registered and licensed in Oklahoma; and

3. Owner is a resident of the State of Oklahoma or the service is an Oklahoma corporation.

B. No operator or employee of any operator shall be permitted, allowed or caused to solicit business or engage in highway remediation and cleanup services without the operator first having obtained from the Department of Environmental Quality a license to operate a highway remediation and cleanup service. The license number shall be displayed, in conformance with rules of the Department, on both sides of every vehicle operated by the highway remediation and cleanup service.

C. The license fee required by this section shall be in lieu of the motor carrier filing fee as required in Section 165 of Title 47 of the Oklahoma Statutes. It shall not be necessary for any operator to prove public convenience and necessity to obtain such

license, and the Department shall issue such license without public hearing. The fee for such license shall be Ten Thousand Dollars ($10,000.00).

D. All licenses shall expire on the last day of the calendar year and may be renewed annually at a cost of One Thousand Dollars ($1,000.00) upon application to the Department as prescribed by rule. No license fee shall be refunded in the event that the license is suspended or revoked.

E. The Department is authorized to issue notices of violation and compliance orders and to suspend, revoke, or refuse to issue or renew the license of an operator when it finds the licensee or applicant has not complied with or has violated any of the provisions of this act, or any rules adopted by the Board. A suspension shall be for a period of time deemed appropriate by the Department for the violation. An operator whose license has been revoked may not apply for one year. Any suspended or revoked license shall be returned to the Department by the operator. An operator whose license is revoked by the Department shall be required to pay an additional fee of Ten Thousand Dollars ($10,000.00) for reinstatement if such reinstatement is authorized by the Department.

F. The Department shall keep a current list of highway remediation and cleanup service operators licensed pursuant to this act and forward such list to the Department of Public Safety for distribution to wrecker service operators licensed by the Department of Public Safety. The Department shall update such list regularly to delete highway remediation and cleanup service operators whose licenses have been suspended or revoked.

G. Fees or fines collected pursuant to the provisions of this section shall be remitted to the State Treasurer to be deposited in the Department of Environmental Quality Revolving Fund.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-405 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall not preclude any person in need of any highway remediation or cleanup service from employing or contracting with any licensed highway remediation service of choice, except where hazardous conditions exist which pose an imminent threat to human health or the environment, in which case a law enforcement officer may contact any available highway remediation and cleanup service operator or any other provider of a needed service as the officer deems necessary as safety and time conditions warrant.

SECTION 7. Sections 2 through 6 of this act shall become effective November 1, 2006.

SECTION 8. 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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