

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 545

By: Shurden, Leftwich and
Lawler of the Senate

and

Liotta and Lindley of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Corporation Commission; authorizing the Commission to promulgate rules to require certain employees to obtain certain criminal history searches; requiring Commission to request certain searches to identify stolen motor vehicles or license plates; authorizing the Commission to suspend or revoke certain licenses or registrations of certain persons; transferring certain order or rules relating to certain suspensions or revocations issued by the Oklahoma Tax Commission to the Corporation Commission; authorizing the Commission to promulgate rules; amending 47 O.S. 2001, Section 162, which relates to duties of the Corporation Commission; authorizing the Commission to administer hazardous material transportation registration and permitting program; authorizing Commission to promulgate rules and set fees applicable to interstate motor carriers; amending 47 O.S. 2001, Section 230.28, as amended by Section 10, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 230.28), which relates to motor carrier licenses; requiring Commission to issue certain licenses or set hearings within certain time period; removing requirement for certain hearings; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 701 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission may promulgate rules to require employees and potential employees in sensitive or law enforcement positions to supply photographs, descriptions, fingerprints, measurements and other pertinent information necessary for a criminal history search by the Oklahoma State Bureau of

Investigation. The Commission may designate national criminal history searches as defined in Section 150.9 of Title 74 of the Oklahoma Statutes if it deems such information necessary.

B. The Commission shall request searches of the online and off-line files of the National Crime Information Center (NCIC), or any successor federal agency which supplies such information, to identify apportioned motor vehicles or apportioned motor vehicle license plates which have been reported stolen.

C. The Commission is authorized to promulgate rules or issue orders to prohibit any person or company from conducting business or participating in any manner of business with the Commission as the Commission deems necessary. Any orders or rules pertaining to the provisions of the Trucking One-Stop Shop Act which were issued by the Oklahoma Tax Commission, on or after January 1, 2002, shall be deemed to be in effect and transferred to the authority of the Corporation Commission in accordance with the provisions of the Trucking One-Stop Shop Act.

D. The Commission is authorized to promulgate any rules necessary to implement the provisions of this section.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 162, is amended to read as follows:

Section 162. A. It shall be the duty of the Corporation Commission to:

1. Supervise and regulate every motor carrier of household goods or used emigrant movables and not operating exclusively within the limits of an incorporated city or town in this state;

2. Fix or approve the maximum or minimum, or maximum and minimum rates, fares, charges, classifications and rules pertaining thereto, of each such motor carrier;

3. Regulate and supervise the accounts, schedules and service of each such motor carrier; and for the conservation of the public highways;

4. Prescribe a uniform system and classification of accounts to be used, which among other things shall set up adequate depreciation charges, and after such accounting system shall have been promulgated, such motor carriers shall use no other;

5. Require the filing of annual reports, and other data as required from time to time by the Commission; and

6. Supervise and regulate such motor carriers in all other matters affecting the relationship between such carriers and the traveling and shipping public.

B. The Commission is authorized to promulgate rules applicable to any or all motor carriers of household goods or used emigrant movables.

C. 1. The Commission is authorized to administer a hazardous ~~waste~~ material transportation registration and permitting program for motor carriers engaged in transporting hazardous ~~waste~~ material upon or over the public highways and within the borders of the state.

2. The Commission shall promulgate rules implementing the provisions of this subsection. Rules promulgated pursuant to this subsection shall be consistent with, and equivalent in scope, coverage, and content to requirements applicable to operators of vehicles transporting hazardous materials contained in the report submitted to the Secretary of the United States Department of Transportation, pursuant to 49 U.S.C. 5119(b), by the Alliance for Uniform Hazardous Material Transportation Procedures.

D. Nothing in this section shall be construed to remove or affect the jurisdiction of the Department of Environmental Quality to implement hazardous waste transportation requirements for federal hazardous waste program delegation to this state under the federal Resource Conservation and Recovery Act.

E. The Commission is authorized to promulgate rules and set fees applicable to interstate motor carriers, pertaining to carrier

registration, operation of equipment and filing of proper proof of liability insurance.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 230.28, as amended by Section 10, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2004, Section 230.28), is amended to read as follows:

Section 230.28 A. It shall be unlawful for any motor carrier to operate or furnish service within this state without first having obtained from the Commission a license declaring that all insurance requirements have been met and that the carrier will operate within all existing rules and state laws pertaining to safety standards, size and weight requirements and, when applicable, lawful handling and disposal of hazardous materials and deleterious substances, and will operate in such a manner as to ensure there will be no detrimental environmental impact. It shall also be unlawful for any private carrier to operate or furnish service within this state without first having obtained from the Corporation Commission a license declaring that all insurance requirements have been met and that the carrier will operate within all existing rules and state laws pertaining to safety standards, size and weight requirements and, when applicable, lawful handling and disposal of hazardous materials and deleterious substances, and will operate in such a manner as to ensure there will be no detrimental environmental impact. The Commission shall have power, and it shall be its duty ~~after public hearing, to issue the license as prayed for, or to refuse to issue the license~~ or set the application for hearing within thirty (30) days of ~~final hearing~~ the Commission determining that the application is complete. Any such hearing shall be scheduled to occur on a date within an additional forty-five (45) business days of such determination. The mere filing of an application does not authorize any person to operate as a carrier.

B. In granting applications for licenses, the Commission shall take into consideration the reliability of the applicant; the proper

equipment meeting minimum safety criteria as adequate to perform the service; and the applicant's sense of responsibility toward the public and the environment.

C. The Commission may, at any time after a public hearing and for good cause, suspend or revoke any license. Provided, the record owner of the license shall be entitled to have ten (10) days' written notice by certified mail from the Commission of any hearing affecting the license, except as otherwise provided in the Motor Carrier Act of 1995. The right of appeal from such order or orders shall be given as in other cases appealed from orders of the Commission.

D. The Commission shall be authorized to exercise any additional power that may from time to time be conferred upon the state by any Act of Congress. The Commission shall adopt rules prescribing the manner and form in which motor carriers and private carriers shall apply for licenses required by the Motor Carrier Act of 1995. Among other rules adopted, the application shall be in writing and shall set forth the following facts:

1. The name and address of the applicant and the names and addresses of its officers, if any;
2. Full information concerning the physical properties of the applicant; and
3. Such other information as the Commission may consider pertinent to the application.

~~E. Upon filing of the application, the Commission shall, in its discretion, fix the time and place for the hearing of the same, which shall not be more than forty-five (45) days after the filing of the application.~~

~~F. In order for the public and all interested parties to receive proper notice, in addition to any notice the Commission may prescribe, the Commission shall circulate, on its own docket form, notice of all applications for licenses to operate as a carrier~~

~~which have been filed, are pending and set for full hearing. The notice shall be published at least fifteen (15) days prior to the date of a full hearing and shall show:~~

- ~~1. The time and place of the hearing;~~
- ~~2. The name and address of the applicant; and~~
- ~~3. Such other information as the Commission may consider pertinent to such notice.~~

~~G. Upon written annual request and payment of an annual fee to the Commission, the publication shall immediately be furnished by mail to any person by the Commission. The fee shall be set by the Commission at reasonable cost and shall not exceed the actual expense of publication. The Commission shall upon receipt of the fee deposit the same in the State Treasury to the credit of the General Revenue Fund.~~

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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