

3 Senate Bill No. 1682
4 As Amended

5 SENATE BILL NO. 1682 - By: FISHER of the Senate and LAMONS of the
6 House.

7 [motor vehicles - modifying certificate of title -
8 effective date -
9 emergency]

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

11 SECTION 1. AMENDATORY 47 O.S. 2001, Section 1105, as
12 last amended by Section 2, Chapter 284, O.S.L. 2005 (47 O.S. Supp.
13 2005, Section 1105), is amended to read as follows:

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

16 1. "Salvage vehicle" means any vehicle which is within the last
17 ten (10) model years and which has been damaged by collision or
18 other occurrence to the extent that the cost of repairing the
19 vehicle for safe operation on the highway exceeds sixty percent
20 (60%) of its fair market value, as defined by Section 1111 of this
21 title, immediately prior to the damage. For purposes of this
22 section, actual repair costs shall only include labor and parts for
23 actual damage to the suspension, motor, transmission, frame or
24 unibody and designated structural components;

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

3 3. "Flood-damaged vehicle" means a salvage or rebuilt vehicle
4 which was damaged by flooding or a vehicle which was submerged at a
5 level to or above the dashboard of the vehicle and on which an
6 amount of loss was paid by the insurer;

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

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

13 B. The owner of every vehicle in this state shall possess a
14 certificate of title as proof of ownership of such vehicle, except
15 those vehicles registered pursuant to Section 1120 of this title and
16 trailers registered pursuant to Section 1133 of this title,
17 previously titled by anyone in another state and engaged in
18 interstate commerce, and except as provided in subsection M of this
19 section. Except for owners that possess an agricultural exemption
20 permit pursuant to Section 1358.1 of Title 68 of the Oklahoma
21 Statutes, the owner of an all-terrain vehicle or a motorcycle used
22 exclusively off roads or highways in this state which is purchased
23 or the ownership of which is transferred on or after July 1, 2005,

1 shall possess a certificate of title as proof of ownership. Any
2 person possessing an agricultural exemption permit and owning an
3 all-terrain vehicle or a motorcycle used exclusively off roads or
4 highways in this state which is purchased or the ownership of which
5 is transferred on or after July 1, 2008, shall possess a certificate
6 of title as proof of ownership. Upon receipt of proper application
7 information by such owner, the Tax Commission shall issue an
8 original or transfer certificate of title. Until July 1, 2008, any
9 security interest in an all-terrain vehicle that attached and was
10 perfected before July 1, 2005, and that has not otherwise terminated
11 shall remain perfected, and shall take priority over any
12 subsequently perfected security interest in the same all-terrain
13 vehicle, notwithstanding that a certificate of title may have been
14 issued with respect to such all-terrain vehicle on or after July 1,
15 2005, and that a lien may have been recorded on said certificate of
16 title. There shall be six types of certificates of title:

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

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

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

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

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

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

8 Application for a certificate of title, whether the initial
9 certificate of title or a duplicate, may be made to the Oklahoma Tax
10 Commission or any motor license agent. When application is made
11 with a motor license agent, the application information shall be
12 transmitted either electronically or by mail to the Tax Commission
13 by the motor license agent. If the application information is
14 transmitted electronically, the motor license agent shall forward
15 the required application along with evidence of ownership, where
16 required, by mail. Where the transmission of application
17 information cannot be performed electronically, the Tax Commission
18 is authorized to provide postage paid envelopes to motor license
19 agents for the purpose of mailing the application along with
20 evidence of ownership, where required. The Tax Commission shall
21 upon receipt of proper application information issue an Oklahoma
22 certificate of title. The certificates may be mailed to the
23 applicant. Upon issuance of a certificate of title, the Tax

1 Commission shall provide the appropriate motor license agent with
2 confirmation of such issuance.

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

- 5 a. a full description of the vehicle,
- 6 b. the manufacturer's serial or other identification
7 number,
- 8 c. the motor number and the date on which first sold by
9 the manufacturer or dealer to the owner,
- 10 d. any distinguishing marks,
- 11 e. a statement of the applicant's source of title,
- 12 f. any security interest upon the vehicle, and
- 13 g. such other information as the Tax Commission may
14 require.

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

- 21 a. the vehicle has been damaged or stolen,
- 22 b. the owner did or did not receive any payment for the
23 loss from an insurer, or

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

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

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

- 21 a. intaglio printing or security thread, with or without
- 22 watermark,
- 23 b. latent images,

- 1 c. fluorescent inks,
- 2 d. micro print,
- 3 e. void background, and
- 4 f. color coding.

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

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

20 D. 1. To obtain an original certificate of title for a vehicle
21 that is being registered for the first time in this state which has
22 not been previously registered in any other state, the applicant
23 shall be required to deliver, as evidence of ownership, a

1 manufacturer's certificate of origin properly assigned by the
2 manufacturer, distributor, or dealer licensed in this or any other
3 state shown thereon to be the last transferee to the applicant upon
4 a form to be prescribed and approved by the Tax Commission. A
5 manufacturer's certificate of origin shall contain:

- 6 a. the manufacturer's serial or other identification
7 number,
- 8 b. date on which first sold by the manufacturer to the
9 dealer,
- 10 c. any distinguishing marks including model and the year
11 same was made,
- 12 d. a statement of any security interests upon the
13 vehicle, and
- 14 e. such other information as the Tax Commission may
15 require.

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

- 18 a. intaglio printing or security thread, with or without
19 watermark,
- 20 b. latent images,
- 21 c. fluorescent inks,
- 22 d. micro print, and
- 23 e. void background.

1 E. In the absence of a dealer's or manufacturer's number, the
2 Tax Commission may assign such identifying number to the vehicle,
3 which shall be permanently stamped, burned or pressed or attached
4 into the vehicle, and a certificate of title shall be delivered to
5 the applicant upon payment of all fees and taxes, and the remaining
6 copies shall be permanently filed and indexed by the Tax Commission.
7 The Tax Commission shall assign an identifying number to any rebuilt
8 vehicle if the vehicle identification number displayed on the
9 rebuilt vehicle does not accurately describe the vehicle as rebuilt.
10 The motor license agent, at the time of inspection of the rebuilt
11 vehicle pursuant to Section 1111 of this title, shall identify the
12 make, model, and year for the body to accurately describe the
13 rebuilt vehicle. At the time of the inspection, an appropriate
14 identifying number shall be permanently stamped, burned, pressed, or
15 attached on the rebuilt vehicle. The assigned identifying number
16 shall be recorded on the certificate of title for the rebuilt
17 vehicle. The dealer's or manufacturer's vehicle identification
18 number on the rebuilt vehicle shall be preserved in the computer
19 files of the Tax Commission for at least five (5) years.

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

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

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

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

22 G. When registering in this state a vehicle which was titled in
23 another state and which title contains the name of a secured party

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

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

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

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

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

5 L. Except for all-terrain vehicles and motorcycles used
6 exclusively for off-road use, no title for an out-of-state vehicle,
7 except any commercial truck or truck-tractor registered pursuant to
8 Section 1120 of this title which is engaged in interstate commerce
9 or any trailer or semitrailer registered pursuant to Section 1133 of
10 this title which is engaged in interstate commerce, shall be issued
11 without an inspection of such vehicle and payment of a fee of Four
12 Dollars (\$4.00) for such inspection; provided, the Tax Commission
13 may enter into reciprocal agreements with other states for such
14 inspections to be performed at locations outside the boundaries of
15 this state for vehicles which:

16 1. Are offered for sale at auction;

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

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

22 The inspection shall include a comparison of the vehicle
23 identification number on the vehicle with the number recorded on the

1 ownership records and the recording of the actual odometer reading
2 on the vehicle. The four-dollar fee shall be collected by the motor
3 license agent or Commission when the title is issued. The motor
4 license agent shall retain Two Dollars (\$2.00). The remaining Two
5 Dollars (\$2.00) shall be deposited in the Oklahoma Tax Commission
6 Reimbursement Fund.

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

10 M. No title for any out-of-state vehicle offered for sale at
11 salvage pools, salvage disposal sales, or an auction, or by a dealer
12 or a licensed automotive dismantler and parts recycler, shall be
13 issued without an inspection to compare the vehicle identification
14 number on the vehicle with the number recorded on the ownership
15 record and to record the actual odometer reading on the vehicle.
16 Upon request of the seller, person or entity conducting an auction,
17 dealer or licensed dismantler, the inspection shall be conducted at
18 the location or place of business of the sale, auction, dealer, or
19 the dismantler. The inspection shall be conducted by any motor
20 license agent or a duly authorized employee thereof; provided, if
21 the vehicle identification number on the vehicle offered for sale at
22 salvage pools, salvage disposal sales or a classic or antique
23 auction does not match the number recorded on the ownership record,

1 the inspection may be conducted at the location of or place of
2 business of such sale or auction by any state, county or city law
3 enforcement officer. The Tax Commission may enter into reciprocal
4 agreements with other states for such inspections to be performed at
5 locations outside the boundaries of this state for vehicles which:

- 6 1. Are offered for sale at auction;
- 7 2. Have been solely used as vehicles for rent under the
8 ownership of a licensed motor vehicle dealer or a person engaged in
9 the business of renting motor vehicles; or
- 10 3. Have not been registered in this or any other state for more
11 than one (1) year.

12 The inspection shall be certified upon forms prescribed by the Tax
13 Commission. The name and other identification of the authorized
14 person conducting the inspection shall be legibly printed or typed
15 on the form. Prior to any inspection by any employee of a motor
16 license agent, the motor license agent shall notify the Tax
17 Commission of the name and any other identification information
18 requested by the Tax Commission of the authorized person. A
19 signature specimen of the authorized person shall be submitted to
20 the Tax Commission by the employing motor license agent. If the
21 authorization to inspect vehicles is withdrawn or the employer-
22 employee relationship is terminated, the motor license agent,
23 immediately, shall notify the Tax Commission and return any

1 remaining inspection forms to the Tax Commission. The fee for the
2 inspection shall be Four Dollars (\$4.00). The motor license agent
3 shall retain Three Dollars (\$3.00) of the fee. Fees received by a
4 motor license agent or an authorized employee thereof shall be
5 handled and accounted for in the manner as prescribed by law for any
6 other fees paid to or received by a motor license agent. Out-of-
7 state vehicles brought into this state by a person licensed in
8 another state to sell new or used vehicles to be sold within this
9 state at a motor vehicle auction which is limited to dealer to
10 dealer transactions shall not be required to be inspected, unless
11 the vehicle is purchased by an Oklahoma dealer. Any person licensed
12 in another state to sell new or used motor vehicles, who offers a
13 motor vehicle for sale within this state at a motor vehicle auction
14 which is limited to dealer-to-dealer transactions, shall not be
15 within the definition of "owner" in Section 1102 of this title, for
16 purposes of Section 1101 et seq. of this title.

17 N. A licensed motor vehicle dealer, upon payment of a fee of
18 Fifteen Dollars (\$15.00), may reassign an out-of-state certificate
19 of title to a used motor vehicle provided such dealer obtains the
20 appropriate inspection form required by either subsection L or M of
21 this section and attaches the form to the out-of-state certificate
22 of title. Motor license agents shall be allowed to retain Two
23 Dollars and twenty-five cents (\$2.25) of the fee plus an additional

1 Two Dollars (\$2.00) or Three Dollars (\$3.00) as provided in
2 subsections L and M of this section for performance of the
3 inspection. Two Dollars (\$2.00) of the fee shall be deposited in
4 the Tax Commission Reimbursement Fund. An out-of-state vehicle
5 which has been rebuilt shall be inspected pursuant to the provisions
6 of Section 1111 of this title. The Tax Commission shall train motor
7 license agents in interpreting vehicle identification numbers to
8 assure that it accurately describes the vehicle and to detect
9 rollback or alteration of the odometer. Failure of a motor license
10 agent to inspect the vehicle and make the required notations shall
11 be a misdemeanor punishable by a fine of not more than One Thousand
12 Dollars (\$1,000.00) for the first offense and Five Thousand Dollars
13 (\$5,000.00) for the second offense or subsequent offense, or by
14 imprisonment in the county jail for not more than six (6) months, or
15 by both such fine and imprisonment.

16 O. The ownership of any vehicle which has been declared a total
17 loss by an insurer because of theft shall be transferred to the
18 insurer by a salvage title; provided, the ownership of any such
19 vehicle which has been declared a total loss by an insurer licensed
20 by the Oklahoma Insurance Department and maintaining a multi-state
21 motor vehicle salvage processing center in this state shall be
22 transferred to the insurer by a salvage title without the
23 requirement of a visual inspection of the vehicle identification

1 number by the insurer. Upon recovery of the vehicle, the ownership
2 shall be transferred by an original title, salvage title, or junked
3 title, as may be appropriate based upon an estimate of the amount of
4 loss submitted by the insurer.

5 P. The owner of any vehicle which is incapable of operation or
6 use on the public roads and has no resale value, except as parts,
7 scrap or junk, may deliver the certificate of title to the vehicle
8 to the Tax Commission for cancellation. Upon verification that any
9 perfected lien against the vehicle has been released, the
10 certificate of title shall be canceled without any fee, charge, or
11 cost required from the owner. The vehicle identification numbers on
12 the certificates of title shall be preserved in the computer files
13 of the Tax Commission for at least five (5) years from the date of
14 cancellation of the certificate of title. The Tax Commission shall
15 prescribe and provide an affidavit form to be completed by the owner
16 of any vehicle for which the certificate of title is canceled. No
17 title or registration shall subsequently be issued for a vehicle for
18 which the certificate of title has been surrendered pursuant to this
19 subsection. The Tax Commission shall prescribe a form for the
20 transfer of ownership of a vehicle for which the certificate of
21 title has been canceled.

22 Q. The owner of a vehicle which is not within the last ten (10)
23 model years, not roadworthy and not capable of repair for operation

1 or use on the roads and highways shall transfer the vehicle only
2 upon a certificate of ownership prescribed by the Tax Commission, if
3 the certificate of title to the vehicle is lost, has been canceled,
4 or otherwise not available. The prescribed ownership form shall
5 include the names and addresses of the buyer and seller, the driver
6 license number or social security number of the seller, the make and
7 model of the vehicle, and the public vehicle identification number.
8 If there is no public vehicle identification number, the vehicle
9 shall be inspected by a law enforcement officer to verify the
10 absence of the number on the vehicle and the prescribed ownership
11 form shall include a signed statement, by such officer, verifying
12 the absence of the number.

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

20 Upon receipt of the certificate, the Tax Commission shall verify
21 that any perfected lien upon the vehicle has been released. If the
22 lien is not released, the Tax Commission shall mail notice of the
23 transfer to the lienholder at the lienholder's last-known address.

1 If a certificate of title has been issued, it shall be canceled and
2 the vehicle identification number shall be preserved in the computer
3 of the Tax Commission for at least five (5) years. The buyer of the
4 vehicle may not be sued and shall not be liable for monetary damages
5 to the lienholder, however, the vehicle shall be subject to a valid
6 repossession by a lienholder.

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

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

17 T. If a vehicle is sold to a foreign buyer pursuant to the
18 provisions of the Automotive Dismantlers and Parts Recycler Act, the
19 licensed seller shall stamp the title with: "EXPORT ONLY.
20 NONTRANSFERABLE IN THE UNITED STATES." The licensed seller shall
21 supply the Tax Commission the title number, the vehicle
22 identification number and the foreign buyer's bid identification
23 number on a form prescribed by the Commission. The Commission shall

1 cancel the title, and the vehicle identification number shall be
2 preserved in the computer files of the Tax Commission for a period
3 of not less than five (5) years.

4 SECTION 2. AMENDATORY 47 O.S. 2001, Section 1110, as
5 last amended by Section 1, Chapter 85, O.S.L. 2004 (47 O.S. Supp.
6 2005, Section 1110), is amended to read as follows:

7 Section 1110. A. 1. Except for a security interest in
8 vehicles held by a dealer for sale or lease, a vehicle registered by
9 a federally recognized Indian tribe as provided in subsection G of
10 this section, and a vehicle being registered in this state which was
11 previously registered in another state and which title contains the
12 name of a secured party on the face of the other state certificate
13 or title, and a except as otherwise provided in subsection B of
14 Section 1105 of this title, a security interest in a vehicle as to
15 which a certificate of title may be properly issued by the Oklahoma
16 Tax Commission shall be perfected only when a lien entry form, and
17 the existing certificate of title, if any, or application for a
18 certificate of title and manufacturer's certificate of origin
19 containing the name and address of the secured party and the date of
20 the security agreement and the required fee are delivered to the Tax
21 Commission or to a motor license agent. As used in this section,
22 the term "dealer" shall be defined as provided in Section 1-112 of
23 this title and the term "security interest" shall be defined as

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

20 2. Whenever a person creates a security interest in a vehicle,
21 the person shall surrender to the secured party the certificate of
22 title or the signed application for a new certificate of title, on
23 the form prescribed by the Tax Commission, and the manufacturer's

1 certificate of origin. The secured party shall deliver the lien
2 entry form and the required lien filing fee within twenty-five (25)
3 days as provided hereafter with certificate of title or the
4 application for certificate of title and the manufacturer's
5 certificate of origin to the Tax Commission or to a motor license
6 agent. If the lien entry form, the lien filing fee and the
7 certificate of title or application for certificate of title and the
8 manufacturer's certificate of origin are delivered to the Tax
9 Commission or to a motor license agent within twenty-five (25) days
10 after the date of the lien entry form, perfection of the security
11 interest shall begin from the date of the execution of the lien
12 entry form, but otherwise, perfection of the security interest shall
13 begin from the date of the delivery to the Tax Commission or to a
14 motor license agent.

15 3. a. For each security interest recorded on a certificate
16 of title, or manufacturer's certificate of origin,
17 such person shall pay a fee of Ten Dollars (\$10.00),
18 which shall be in addition to other fees provided for
19 in the Oklahoma Vehicle License and Registration Act.
20 Upon the receipt of the lien entry form and the
21 required fees with either the certificate of title or
22 an application for certificate of title and
23 manufacturer's certificate of origin, a motor license

1 agent shall, by placement of a clearly distinguishing
2 mark, record the date and number shown in a
3 conspicuous place, on each of these instruments. Of
4 the ten-dollar fee, the motor license agent shall
5 retain Two Dollars (\$2.00) for recording the security
6 interest lien.

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

20 4. The certificate of title or the application for certificate
21 of title and manufacturer's certificate of origin with the record of
22 the date of receipt clearly marked thereon shall be returned to the
23 debtor together with a notice that the debtor is required to

1 register and pay all additional fees and taxes due within thirty
2 (30) days from the date of purchase of the vehicle.

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

11 6. The lien entry form with the date and assigned number
12 thereof clearly marked thereon shall be returned to the secured
13 party. If the lien entry form is received and authenticated, as
14 herein provided, by a motor license agent, the agent shall make a
15 report thereof to the Tax Commission upon the forms and in the
16 manner as may be prescribed by the Tax Commission.

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

20 B. 1. A secured party shall, within seven (7) business days
21 after the satisfaction of the security interest, furnish directly or
22 by mail a release of a security interest to the Tax Commission and
23 mail a copy thereof to the last-known address of the debtor. If the

1 security interest has been satisfied by payment from a licensed used
2 motor vehicle dealer to whom the motor vehicle has been transferred,
3 the secured party shall also, within seven (7) business days after
4 such satisfaction, mail an additional copy of the release to the
5 dealer. If the secured party fails to furnish the release as
6 required, the secured party shall be liable to the debtor for a
7 penalty of One Hundred Dollars (\$100.00) and, in addition, any loss
8 caused to the debtor by such failure.

9 2. Upon release of a security interest the owner may obtain a
10 new certificate of title omitting reference to the security
11 interest, by submitting to the Tax Commission or to a motor license
12 agent:

- 13 a. a release signed by the secured party, an application
14 for new certificate of title and the proper fees, or
15 b. by submitting to the Tax Commission or the motor
16 license agent an affidavit, supported by such
17 documentation as the Tax Commission may require, by
18 the owner on a form prescribed by the Tax Commission
19 stating that the security interest has been satisfied
20 and stating the reasons why a release cannot be
21 obtained, an application for a new certificate of
22 title and the proper fees.

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

10 The words "security interest" when used in the Oklahoma Vehicle
11 License and Registration Act do not include liens dependent upon
12 possession.

13 C. The Tax Commission shall file and index certificates of
14 title so that at all times it will be possible to trace a
15 certificate of title to the vehicle designated therein, identify the
16 lien entry form, and the names and addresses of secured parties, or
17 their assignees, so that all or any part of such information may be
18 made readily available to those who make legitimate inquiry of the
19 Tax Commission as to the existence or nonexistence of security
20 interest in the vehicle.

21 D. 1. Any security interest in a vehicle properly perfected
22 prior to July 1, 1979, may be continued as to its effectiveness or
23 duration as provided by Sections 1-9-501 and 1-9-515 of Title 12A of

1 the Oklahoma Statutes, or may be terminated, assigned or released as
2 provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of
3 the Oklahoma Statutes, as fully as if this section had not been
4 enacted, or, at the option of the secured party, may also be
5 perfected under this section, and, if so perfected, the time of
6 perfection under this section shall be the date the security
7 interest was originally perfected under the prior law.

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

12 E. If a manufactured home is permanently affixed to real
13 estate, the original document of title may be surrendered to the Tax
14 Commission or a motor license agent for cancellation. When the
15 document of title is surrendered, the owner shall provide the legal
16 description or the appropriate tract or parcel number of the real
17 estate and other information as may be required on a form provided
18 by the Tax Commission. The Tax Commission may not cancel a document
19 of title if a lien has been registered or recorded. The Tax
20 Commission or motor license agent shall notify the owner and any
21 lienholder that the title has been surrendered to the Tax Commission
22 and that the Tax Commission may not cancel the title until the lien
23 is released. Such notification shall include a description of the

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

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

13 F. In the case of motor vehicles or trailers, notwithstanding
14 any other provision of law, a transaction does not create a sale or
15 security interest merely because it provides that the rental price
16 is permitted or required to be adjusted under the agreement either
17 upward or downward by reference to the amount realized upon sale or
18 other disposition of the motor vehicle or trailer.

19 G. A security interest in vehicles registered by a federally
20 recognized Indian tribe shall be deemed valid under Oklahoma law if
21 validly perfected under the applicable tribal law and the lien is
22 noted on the face of the tribal certificate of title.

23 SECTION 3. This act shall become effective July 1, 2006.

1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-14-06 - DO
6 PASS, As Amended and Coauthored.