

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1246

By: Smithson

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Sections 1-123, 1-134, as last amended by Section 6, Chapter 411, O.S.L. 2003 and 1-186, as last amended by Section 9, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Sections 1-134 and 1-186), which relate to definitions of words and phrases; modifying statutory references; amending 47 O.S. 2001, Sections 12-101, as last amended by Section 44, Chapter 5, O.S.L. 2004, Section 20, Chapter 411, O.S.L. 2003, 12-201, as amended by Section 21, Chapter 411, O.S.L. 2003, 12-225, as amended by Section 85, Chapter 411, O.S.L. 2003 and as renumbered by Section 42, Chapter 411, O.S.L. 2003, Section 25, Chapter 411, O.S.L. 2003, 12-227, as amended by Section 44, Chapter 411, O.S.L. 2003, 12-301, as amended by Section 47, Chapter 411, O.S.L. 2003, 12-416, 12-419, 12-420, 12-501, Section 68, Chapter 411, O.S.L. 2003, as amended by Section 17, Chapter 521, O.S.L. 2004, Section 71, Chapter 411, O.S.L. 2003, Section 75, Chapter 411, O.S.L. 2003, Section 76, Chapter 411, O.S.L. 2003, Section 79, Chapter 411, O.S.L. 2003 and Section 80, Chapter 411, O.S.L. 2003, (47 O.S. Supp. 2004, Sections 12-101, 12-101.2, 12-201, 12-203.4, 12-204.1, 12-227, 12-301, 12-601, 12-604, 12-702, 12-703, 12-706 and 12-707), which relate to equipment of vehicles; modifying statutory references; providing exception for certain braking systems; amending 47 O.S. 2001, Section 13-102, as amended by Section 10, Chapter 199, O.S.L. 2003 (47 O.S. Supp. 2004, Section 13-102), which relates to inspection of vehicles; increasing time limitation; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 1-123, is amended to read as follows:

Section 1-123. "Manufactured home" means and includes every vehicle defined as a manufactured home ~~as defined in paragraph 14 of Section 22.1 1102~~ of this title.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 1-134, as last amended by Section 6, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 1-134), is amended to read as follows:

Section 1-134. Motor Vehicle.

A. A motor vehicle is:

1. Any vehicle which is self-propelled; or
2. Any vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

B. As used in this title, the term "motor vehicle" shall not include:

1. Implements of husbandry, as defined in Section 1-125 of this title;
2. Electric personal assistive mobility devices as defined in Section 1-114A of this title;
3. Motorized wheelchairs, as defined in Section ~~§~~ 1-136.3 of this ~~act~~ title; or
4. Vehicles moved solely by human or animal power.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 1-186, as last amended by Section 9, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 1-186), is amended to read as follows:

Section 1-186. Vehicle.

A. A vehicle is any device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

B. As used in this title, the term "vehicle" shall not include:

1. Implements of husbandry, as defined in Section 1-125 of this title;
2. Electric personal assistive mobility devices, as defined in Section 1-114A of this title; or
3. Motorized wheelchairs, as defined in Section ~~§~~ 1-136.3 of this ~~act~~ title.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 12-101, as last amended by Section 44, Chapter 5, O.S.L. 2004 (47 O.S. Supp. 2004, Section 12-101), is amended to read as follows:

Section 12-101. A. It shall be a misdemeanor, upon conviction, punishable as provided in Section 17-101 of this title, for any person:

1. To drive or move, or for the owner to cause or permit to be driven or moved on any highway, any vehicle or combination of vehicles which:

- a. is known to be in such unsafe condition as to endanger any person,
- b. is known not to contain those parts required by this chapter,
- c. is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or
- d. is known to be equipped in any manner in violation of this chapter;

2. To do any act forbidden under this chapter; or

3. To fail to perform any act required under this chapter.

B. Nothing contained in this chapter shall be construed to prohibit on any vehicle:

1. Equipment required by the United States Department of Transportation pursuant to 49 C.F.R., Chapter V; or

2. The use of additional parts and accessories which are not inconsistent with provisions of this chapter.

C. The provisions of Article II et seq. of this chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, farm tractors, motorcycles as defined in Section ~~68~~ 12-601 of this ~~act~~ title, or vehicles designed to be moved solely by animal or human power, except as specifically made applicable in this chapter.

D. Any specific requirement of this chapter with respect to equipment on any vehicle, other than a bicycle, shall not apply if the vehicle was lawfully designed and manufactured without such equipment; provided, the provisions of this chapter shall apply to any homemade vehicle or any vehicle constructed from a kit or from plans.

E. A low-speed electrical vehicle which is in compliance with the equipment requirements in 49 C.F.R., Section 571.500 shall be deemed to be in compliance with the provisions of this chapter.

F. The provisions of this chapter shall not apply to vehicles registered in Oklahoma as antique or classic vehicles pursuant to Section 1136.1 of this title and rules promulgated pursuant thereto.

G. The Commissioner of Public Safety may promulgate rules regarding vehicle equipment and standards for vehicle equipment required to maintain such equipment in safe condition and in compliance with this chapter.

H. Any person producing proof within forty-eight (48) hours that a condition or equipment for which the person was cited as defective, missing, prohibited, improper, unauthorized or otherwise in violation of this chapter has been remedied by the person shall be entitled to dismissal of such charge without assessment of court costs.

I. As used in this chapter:

1. "Lamp" means an electrical device producing artificial illumination by use of one or more lights, each light of which performs the same function or separate functions as required by this chapter;

2. "Lightweight vehicle" means a motor vehicle that has a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or less, other than:

- a. a vehicle that is being used to transport passengers for hire, or

- b. a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded under 49 C.F.R., Section 177.823;

3. "Nighttime" or "night" means any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise; and

4. "Passenger car" means a motor vehicle designed for carrying ten persons, including the driver, or less except a low-speed electric vehicle or motorcycle, as defined in Section ~~68~~ 12-601 of this ~~act~~ title.

SECTION 5. AMENDATORY Section 20, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-101.2), is amended to read as follows:

Section 12-101.2 This act shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this ~~act~~ chapter shall be severable and if any phrase, clause, sentence or provision of this ~~act~~ chapter is declared to be invalid or to be preempted by federal law or regulation, the validity of the remainder of this ~~act~~ chapter shall not be affected thereby, and the remaining provisions shall be in full force and effect.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 12-201, as amended by Section 21, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-201), is amended to read as follows:

Section 12-201. A. The United States Department of Transportation specifications and standards for headlamps, auxiliary driving lamps, tail lamps, signal lamps, reflectors, and other lighting equipment and signal devices, pursuant to 49 C.F.R., Section 571.108, are hereby adopted by the State of Oklahoma.

B. Except as otherwise provided in this chapter and subject to exceptions for parked vehicles, every vehicle upon a highway within this state shall properly display all lamps and illuminating devices as required by law:

1. At any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, also referred to in this chapter as nighttime; and

2. At any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of one thousand (1,000) feet or less.

C. All lamps required by this chapter shall display a steady light except as otherwise prescribed by this chapter. Any required individual lamp may be combined or incorporated with any other required individual lamp if the combined or incorporated lamps meet all of the individual lighting requirements of this chapter for each individual lamp contained therein.

D. No lamp, other than a headlamp, displayed on any vehicle shall project a glaring light; provided, every headlamp shall comply with Section ~~39~~ 12-222 of this ~~act~~ title.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 12-225, as amended by Section 85, Chapter 411, O.S.L. 2003 and as renumbered by Section 42, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-203.4), is amended to read as follows:

Section 12-203.4 Any motor vehicle operated at a speed of twenty (20) miles per hour or less may be operated under the conditions specified in subsection B of Section 12-201 of this title when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects one hundred (100) feet ahead in lieu of lamps required in Section 12-203 or ~~12-223~~ 12-203.3 of this title.

SECTION 8. AMENDATORY Section 25, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-204.1), is amended to read as follows:

Section 12-204.1 A. No more than two separate lamps with a white light shall be so constructed and placed as to illuminate the

rear license plate and render it clearly legible from a distance of fifty (50) feet to the rear.

B. Any separate lamp or lamps for illuminating the rear license plate, shall be lighted whenever the clearance lamps and:

1. Headlamps;

2. Combination of headlamps and auxiliary driving lamps, as defined in Section 12-217 of ~~Title 47 of the Oklahoma Statutes~~ this title; or

3. Fog lamps, as defined in Section 12-217 of this title, are lighted.

C. The operation of a vehicle upon which the license plate is surrounded or framed, partially or in whole, by any additional lamp or lamps or otherwise lighted by any additional lamp or lamps, shall be a violation of this section. In addition, display and visibility of the rear license plate shall be in compliance with paragraph 2 of subsection A of Section 1113 of ~~Title 47 of the Oklahoma Statutes~~ this title.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 12-227, as amended by Section 44, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-227), is amended to read as follows:

Section 12-227. A. Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary driving lamps, flashing turn signals, vehicular hazard warning lamps, authorized emergency vehicle lamps, snow removal and construction and maintenance vehicle warning lamps, and school bus and church bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.

B. Except as provided in Sections ~~12-216~~, 12-218, 12-218.1, 12-228 and 12-229 of this title, no person shall drive or move any

vehicle or equipment upon any highway with any lamp or device thereon displaying or capable of displaying a red or blue light visible from directly in front of the center thereof.

C. Flashing lights are prohibited except on:

1. An authorized emergency vehicle, as provided in Section 12-218 of this title;

2. A school bus or a church bus, as provided in Section 12-228 of this title;

3. Any snow-removal and construction, and maintenance equipment, as provided in Section 12-229 of this title;

4. A wrecker or tow vehicle while at the scene of an emergency, as provided in Section ~~36~~ 12-218.1 of this ~~act~~ title;

5. Any vehicle as a means of indicating a right or left turn, as provided in Sections ~~28~~ 12-206.1 and ~~73~~ 12-606 of this ~~act~~ title;

6. Any vehicle as means of indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing, as provided in Section 12-220 of this title;

7. Any vehicle displaying side marker lamps which flash in conjunction with turn signal lamps or vehicle hazard warning lamps, as provided in Section 12-220 of this title;

8. A farm tractor or an implement of husbandry, as provided in Section 12-215 of this title; or

9. Any vehicle used while performing official duties as a rural or contract route mail carrier of the United States Postal Service, as provided in Section ~~37~~ 12-218.2 of this ~~act~~ title.

D. Blue lights are prohibited except as allowed in Sections ~~12-216,~~ 12-218, 12-218.1 and 12-229 of this title.

E. Any person violating the provisions of subsection B, C or D of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

SECTION 10. AMENDATORY 47 O.S. 2001, Section 12-301, as amended by Section 47, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-301), is amended to read as follows:

Section 12-301. A. Every motor vehicle manufactured prior to September 1, 1961, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

B. 1. Every motor vehicle manufactured on or after September 1, 1961, operated upon the highways shall be equipped with service brakes upon all wheels.

2. A truck or truck-tractor having three or more axles need not be equipped with brakes on the front axle if:

- a. the vehicle was manufactured on or before July 24, 1980, or
- b. the vehicle was manufactured on or after July 25, 1980, but no later than October 26, 1986, and the brake components have not been removed. If the brake components have been removed, the vehicle shall be retrofitted to meet the requirements of this section.

C. 1. Every trailer, semitrailer, and pole trailer of a gross vehicle weight rating of three thousand (3,000) pounds or more when operated upon a highway shall be equipped with brakes:

- a. adequate to control the movement of and to stop and to hold such vehicle,
- b. so designated as to be applied by the driver of the towing motor vehicle from its cab. Provided, braking systems commonly known as "surge brakes" shall be

lawful when used on a trailer which is towing or transporting a vessel or vessels, and

- c. so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.

2. Every trailer, semitrailer, and pole trailer required to be equipped with brakes, except motor vehicles engaged in drive-away tow-away operations as provided in 49 C.F.R., Part 393.42, shall be equipped with brakes which are designed to be applied automatically and promptly upon break-away from the towing vehicle, and means shall be provided to maintain application of the brakes on the trailer in such a case for at least fifteen (15) minutes.

3. Any trailer, semitrailer, or pole trailer having a gross vehicle weight rating of less than three thousand (3,000) pounds need not be equipped with brakes; provided, the trailer, semitrailer, or pole trailer shall be equipped with brakes if the weight of the towed vehicle exceeds forty percent (40%) of the gross vehicle weight rating of the towing vehicle.

D. Every motor vehicle and every combination of vehicles shall be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated under all conditions of loading, on a surface free from snow, ice, or loose material.

E. The braking system on the rear axle of any motor vehicle may be used for both service brake and parking brake operation.

F. 1. Air brake systems installed on towed vehicles manufactured shall be designed as provided in 49 C.F.R., Section 393.43.

2. Every truck or truck-tractor, if used to tow a trailer equipped with brakes, shall be equipped with service brakes as provided in 49 C.F.R., Section 393.43.

3. Every truck or truck tractor equipped with air brakes, when used to tow another vehicle equipped with full air brakes, in operations other than drive-away or tow-away, shall, in addition to the above, be equipped with two means of activating the emergency features of the trailer brakes as provided in 49 C.F.R., Section 393.43.

4. Every motor vehicle which is equipped with power brakes, shall comply with 49 C.F.R., Section 393.49.

5. Every truck tractor and truck used for towing other vehicles equipped with vacuum brakes, in operations other than drive-away tow-away, on and after September 1, 1961, shall, in addition to other requirements of state and federal law, comply with 49 C.F.R., Section 393.43.

G. Every bus, truck, and truck-tractor which is equipped with an air or vacuum brake system, shall be equipped with a reservoir as required by 49 C.F.R., Section 393.50, sufficient to insure a brake application capable of stopping the vehicle within the stopping distance requirements of Section 12-302 of this title in the event the engine stops.

H. Every bus, truck and truck-tractor shall be equipped with service brake warning devices and signals as required by 49 C.F.R., Part 393.51.

I. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. The brakes shall be capable of stopping the vehicle, or a combination of vehicles, within the stopping distance requirements of Section 12-302 of this title.

SECTION 11. AMENDATORY 47 O.S. 2001, Section 12-416, is amended to read as follows:

Section 12-416. ~~This act~~ Sections 12-416 through 12-420 of this title shall be known and may be cited as the "Oklahoma Mandatory Seat Belt Use Act".

SECTION 12. AMENDATORY 47 O.S. 2001, Section 12-419, is amended to read as follows:

Section 12-419. A. The Department of Public Safety shall establish an educational program designed to encourage compliance with the Oklahoma Mandatory Seat Belt Use Act.

B. The Department of Public Safety shall evaluate the effectiveness of ~~this act~~ Sections 12-416 through 12-420 of this title and provide a report. The state shall include this report in the annual evaluation report on its Highway Safety Plan that it submits to the National Highway Traffic Safety Administration and the Federal Highway Administration pursuant to 23 U.S.C. 402.

SECTION 13. AMENDATORY 47 O.S. 2001, Section 12-420, is amended to read as follows:

Section 12-420. Nothing in ~~this act~~ Sections 12-416 through 12-420 of this title shall be used in any civil proceeding in this state and the use or nonuse of seat belts shall not be submitted into evidence in any civil suit in Oklahoma.

SECTION 14. AMENDATORY 47 O.S. 2001, Section 12-501, is amended to read as follows:

Section 12-501. ~~This act~~ Sections 12-501 through 12-507 of this title shall be known and may be cited as the "Odometer Setting Act".

SECTION 15. AMENDATORY Section 68, Chapter 411, O.S.L. 2003, as amended by Section 17, Chapter 521, O.S.L. 2004 (47 O.S. Supp. 2004, Section 12-601), is amended to read as follows:

Section 12-601. A. Every motorcycle of the model year 1978 or later operating upon a highway within this state shall display at all times:

1. A lighted headlamp or headlamps; and

2. Any other illuminating devices, if manufactured to be displayed at all times.

This subsection shall not apply to motorcycles used in official law enforcement capacities.

B. The provisions of subsections A, C and D of Section 12-201 of ~~Title 47 of the Oklahoma Statutes~~ this title shall apply to motorcycles; provided, however, notwithstanding the provisions of subsection E of Section 12-201 of ~~Title 47 of the Oklahoma Statutes~~ this title, a motorcycle may be equipped with a motorcycle headlamp modulation system as authorized by 49 C.F.R., Section 571.108, S7.9.4.

C. As used in Chapter 12 of this title, "motorcycle" shall include, unless otherwise specifically indicated, motorcycles and motor-driven cycles as those terms are defined in Chapter 1 of this title.

SECTION 16. AMENDATORY Section 71, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-604), is amended to read as follows:

Section 12-604. A. Every motorcycle shall be equipped with and display at least one reflector meeting the requirements of this section.

B. Every such reflector shall be mounted on the motorcycle at a height not less than fifteen (15) inches nor more than sixty (60) inches measured as set forth in subsection B of Section 12-202 of ~~Title 47 of the Oklahoma Statutes~~ this title, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within six hundred (600) feet to one hundred (100) feet from the motorcycle when directly in front of lawful lower beams of headlamps.

SECTION 17. AMENDATORY Section 75, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-702), is amended to read as follows:

Section 12-702. Every bicycle in use at the times described in subsection B of Section 12-201 of ~~Title 47 of the Oklahoma Statutes~~ this title shall be equipped with a lamp on the front emitting a white light visible from a distance of at least one thousand (1,000) feet to the front. This section shall not apply to a street or highway with a speed limit of twenty-five (25) miles per hour or less.

SECTION 18. AMENDATORY Section 76, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-703), is amended to read as follows:

Section 12-703. Every bicycle in use at the times described in subsection B of Section 12-201 of ~~Title 47 of the Oklahoma Statutes~~ this title shall be equipped with a lamp on the rear emitting a red light visible from a distance of at least one thousand (1,000) feet to the rear. This section shall not apply to a street or highway with a speed limit of twenty-five (25) miles per hour or less.

SECTION 19. AMENDATORY Section 79, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-706), is amended to read as follows:

Section 12-706. Every bicycle when in use at the times described in subsection B of Section 12-201 ~~Title 47 of the Oklahoma Statutes~~ of this title shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for six hundred (600) feet when directly in front of lawful lower beams of headlamps on a motor vehicle.

SECTION 20. AMENDATORY Section 80, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-707), is amended to read as follows:

Section 12-707. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by the foregoing sections; provided, such lights or reflectors shall comply with the

provisions and limitations of Article II of Chapter 12 of ~~Title 47~~
~~of the Oklahoma Statutes~~ this title.

SECTION 21. AMENDATORY 47 O.S. 2001, Section 13-102, as amended by Section 10, Chapter 199, O.S.L. 2003 (47 O.S. Supp. 2004, Section 13-102), is amended to read as follows:

Section 13-102. A. Members of the Oklahoma Highway Patrol and other employees of the Department of Public Safety as designated by the Commissioner, may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair or the operator is not properly licensed, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

B. In the event such vehicle or combination of vehicles is found to be in an unsafe mechanical condition or is not equipped as required by this act, the officer making the inspection may give the driver a notice of arrest or written warning. Any person producing proof within ~~forty-eight (48) hours~~ ten (10) working days from the date the citation was issued that a condition or equipment for which the person was cited as defective, missing, prohibited, improper, unauthorized or otherwise in violation of this chapter has been remedied by the person shall be entitled to dismissal of such charges without assessment of court costs.

C. No person shall operate or cause to be operated any vehicle or combination of vehicles after notice of arrest or written warning has been issued of such unsafe condition or that the vehicle is not equipped as required by this act, except as may be necessary to return such vehicle or combination of vehicles to the residence or place of business of the owner or driver if within a distance of twenty (20) miles or to a garage, until said vehicle and its equipment has been made to conform with the requirements of this act.

D. Any vehicle or combination of vehicles found to have major mechanical defects which would be hazardous to other users of the highways if it were driven from the place of inspection as provided for in subsection C of this section shall be towed to a garage for repairs, and any repair charge, tow charge or storage charge for the repair, removal and storing of the vehicle shall be the obligation of the owner or operator.

SECTION 22. This act shall become effective November 1, 2005.

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