

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1502

By: Roan

AS INTRODUCED

An Act relating to public safety; amending 21 O.S. 2001, Section 1220, as last amended by Section 1, Chapter 386, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1220), which relates to transporting intoxicating beverage or low-point beer; modifying penalty; amending 21 O.S. 2001, Section 1283, as amended by Section 1, Chapter 136, O.S.L. 2002 (21 O.S. Supp. 2004, Section 1283), which relates to convicted felons and delinquents; modifying certain prohibited act; amending 22 O.S. 2001, Sections 1111, 1115 and 1115.1, which relate to State and Municipal Traffic Bail Bond Procedure Act; deleting statutory reference; clarifying bail procedure; modifying statutory reference; modifying name of act; defining certain term; providing for personal recognizance bond; providing certain sanctions for failure to appear; stating provisions used under certain circumstance; providing procedures and sanctions for not responding to certain notice; requiring collection of judgment for reinstatement; declaring default under certain circumstance; providing for prima facie evidence upon filing of citation; providing an exception; stating procedures for court to follow; providing the showing of cause upon timely appearance of defendant; allowing court to set aside order under certain circumstances; requiring appearance bond under certain circumstance; amending 40 O.S. 2001, Section 552, which relates to Standards for Workplace Drug and Alcohol Testing Act; modifying certain definition; amending 47 O.S. 2001, Section 12-417, as amended by Section 1, Chapter 35, O.S.L. 2002 and 12-422, as amended by Section 24, Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2004, Sections 12-417 and 12-422), which relate to equipment of vehicles; clarifying requirements for safety seat belt system exemption; requiring placement of restriction on driver license; modifying definition; deleting certain definition; deleting certain compliance requirement; amending 47 O.S. 2001, Section 1113, as last amended by Section 4, Chapter 534, O.S.L. 2004 and 1137.1 (47 O.S. Supp. 2004, Section 1113), which relate to registration, fees, and license plates; providing exemption to registration requirement; requiring registration and display of certain license plate on certain vehicles; amending 63 O.S. 2001, Sections 4005, 4009 and 4021, as amended by Section 14, Chapter 534, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4021), which relate to the Oklahoma Vessel and Motor Registration Act; providing exemption to title and registration fees; allowing issuance of yearly decals for certain vessels and motors; providing exemption to payment of certain

registration fees; amending 63 O.S. 2001, Sections 4206 and 4219, which relate to the Oklahoma Boating Safety Regulation Act; requiring use of personal flotation device at certain times; modifying jurisdiction of prohibited act; repealing Section 1, Chapter 395, O.S.L. 1998, which relates to semiannual report by Department of Public Safety; repealing Section 2, Chapter 148, O.S.L. 2004 (22 O.S. Supp. 2004, Section 1108.2), which relates to personal recognizance bonds in traffic and wildlife tickets; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1220, as last amended by Section 1, Chapter 386, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1220), is amended to read as follows:

Section 1220. A. It shall be unlawful for any person to knowingly transport in any moving vehicle upon a public highway, street or alley any intoxicating beverage or low-point beer, as defined by Sections 163.1 and 163.2 of Title 37 of the Oklahoma Statutes, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished ~~by a fine of not more than Fifty Dollars (\$50.00)~~ as provided in subsection A of Section 566 of Title 37 of the Oklahoma Statutes.

B. Any person convicted of violating any provision of subsection A of this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.

C. The provisions of subsection A of this section shall not apply to the passenger area of buses and limousines; however, it shall be unlawful for the driver of the bus or limousine to consume or have in the driver's immediate possession any intoxicating beverage or low-point beer.

D. No city, town, or county may adopt any order, ordinance, rule or regulation concerning the consumption or serving of intoxicating beverages or low-point beer in buses or limousines.

E. As used in this section:

1. "Bus" means a vehicle as defined in Section 1-105 of Title 47 of the Oklahoma Statutes chartered for transportation of persons for hire. It shall not mean a school bus, as defined by Section 1-160 of Title 47 of the Oklahoma Statutes, transporting children or a vehicle operated pursuant to a franchise with a city or town operating over a regularly scheduled route; and

2. "Limousine" means a chauffeur-driven motor vehicle, other than a bus or taxicab, as defined by Section 1-174 of Title 47 of the Oklahoma Statutes, designed and used for transportation of persons for compensation.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1283, as amended by Section 1, Chapter 136, O.S.L. 2002 (21 O.S. Supp. 2004, Section 1283), is amended to read as follows:

Section 1283.

CONVICTED FELONS AND DELINQUENTS

A. Except as provided in subsection B of this section, it shall be unlawful for any person convicted of any felony in any court of this state or of another state or of the United States to have in his or her possession or under his or her immediate control, or in any vehicle which the person is operating, or in which the person is riding as a passenger, or at the residence where the convicted person resides, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly

~~firearm which could be easily concealed on the person, in personal effects or in an automobile.~~

B. Any person who has previously been convicted of a nonviolent felony in any court of this state or of another state or of the United States, and who has received a full and complete pardon from the proper authority and has not been convicted of any other felony offense which has not been pardoned, shall have restored the right to possess any firearm or other weapon prohibited by subsection A of this section, the right to apply for and carry a concealed handgun pursuant to the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, and the right to perform the duties of a peace officer, gunsmith, or for firearms repair.

C. It shall be unlawful for any person supervised by the Department of Corrections or any division thereof to have in his or her possession or under his or her immediate control, or at his or her residence, or in any passenger vehicle which the supervised person is operating or is riding as a passenger, any pistol, shotgun or rifle, including any imitation or homemade pistol, shotgun or rifle, while such person is subject to supervision, probation, parole or inmate status.

D. It shall be unlawful for any person previously adjudicated as a delinquent child or a youthful offender for the commission of an offense, which would have constituted a felony offense if committed by an adult, to have in said person's possession or under the person's immediate control, or have in any vehicle which he or she is driving or in which said person is riding as a passenger, or at the person's residence, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm which could be easily concealed on the person, in personal effects or in an automobile, within ten (10) years after such adjudication.

E. Any person having been issued a concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, and who thereafter knowingly or intentionally allows a convicted felon or adjudicated delinquent or a youthful offender as prohibited by the provisions of subsections A, C, or D of this section to possess or have control of any pistol authorized by the Oklahoma Self-Defense Act shall, upon conviction, be guilty of a felony punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00). In addition, the person shall have the handgun license revoked by the Oklahoma State Bureau of Investigation after a hearing and determination that the person has violated the provisions of this section.

F. Any convicted or adjudicated person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable as provided in Section 1284 of this title.

G. For purposes of this section, "sawed-off shotgun or rifle" shall mean any shotgun or rifle which has been shortened to any length.

SECTION 3. AMENDATORY 22 O.S. 2001, Section 1111, is amended to read as follows:

Section 1111. A. Any person arrested by a law enforcement officer for any violation of any statute relating to water safety or for any misdemeanor violation of the Oklahoma Wildlife Conservation Code, ~~or for commission of an offense as provided by Section 1112 of this title,~~ in addition to other provisions of law for posting bail, shall be admitted to bail as follows:

~~(a) post~~ 1. By posting cash bail, of an amount as ~~indicated in Section 1112~~ prescribed by the schedule prepared pursuant to subsection E of Section 1115.3 of this title, in an envelope addressed to the court clerk of the district court of the appropriate jurisdiction. The defendant, in the presence of the arresting ~~officers~~ officer, shall deposit the envelope containing

the citation, on which the date of the hearing has been indicated by the arresting ~~officers~~ officer, and the bail bond for ~~his~~ the appearance at such time and place, in the United States mail. The arresting ~~officers~~ officer shall furnish a receipt to the person. For the purpose of this section, cashier's checks, postal money orders, instruments commonly known as traveler's checks, certified checks, and personal checks shall be considered as cash. Any person who does not post a cash bail shall deposit with the arresting officer a valid license to operate a motor vehicle; provided that an out-of-state arrestee posting cash by personal check shall deposit with the arresting officer a valid license to operate a motor vehicle as provided in subsection ~~(b)~~ B of this section, except the receipt shall cease to operate as ~~an operator's~~ a driver license if the personal check is not honored after the last presentment. The court clerk shall supply the ~~sheriff's~~ office of the sheriff, ~~Oklahoma~~ the Department of Public Safety and the Oklahoma Department of Wildlife Conservation with postage paid preaddressed envelopes. The cost of the envelopes and postage shall be paid from the court fund; or

~~(b) deposit~~ 2. By depositing with the arresting officer a valid license to operate a motor vehicle, in exchange for an official receipt issued by the arresting officer. The ~~operator's~~ driver license and citation shall be transmitted by the arresting officer to the clerk of the court having jurisdiction over the offense.

B. Application for a ~~duplicate~~ replacement driver license ~~to operate a motor vehicle~~ during the period when the original license is posted in lieu of cash bail shall be a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not less than seven (7) days nor more than six (6) months, or by both such fine and imprisonment. Provided, that notice of the fine and punishment

shall be printed on the receipt issued for deposit of a ~~driver's~~
driver license in lieu of cash bail. The receipt for posting bail
by depositing a valid ~~operator's~~ driver license shall be on forms
approved by the Commissioner of Public Safety. The receipt shall be
recognized as ~~an operator's~~ a driver license and shall authorize the
operation of a motor vehicle until the date of arraignment but not
exceeding twenty (20) days.

SECTION 4. AMENDATORY 22 O.S. 2001, Section 1115, is
amended to read as follows:

Section 1115. Sections ~~4~~ 1115 through ~~6~~ 1115.5 of this ~~act~~
title shall be known and may be cited as the "State and Municipal
Traffic, Water Safety, and Wildlife Bail Bond Procedure Act". The
provisions of the State and Municipal Traffic, Water Safety, and
Wildlife Bail Bond Procedure Act shall not apply to parking or
standing traffic violations.

SECTION 5. AMENDATORY 22 O.S. 2001, Section 1115.1, is
amended to read as follows:

Section 1115.1 A. As used in this section, "personal
recognizance" means a written promise by a defendant to pay or
appear by a date certain before a district or municipal court in
lieu of arrest for an offense as prescribed in this section. The
written promise to pay or appear shall be known as a personal
recognizance bond. The defendant affixing his or her signature on a
uniform citation shall be evidence of the creation of a personal
recognizance bond.

B. In addition to other provisions of law for posting bail, any
person, whether a resident of this state or a nonresident, who is
arrested by a law enforcement officer solely for a misdemeanor
violation of a state traffic law or municipal traffic ordinance,
shall be released by the arresting officer upon personal
recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States, which is a participant in the Nonresident Violator Compact or any party jurisdiction of the Nonresident Violator Compact;

2. The arresting officer is satisfied as to the identity of the arrested person;

3. The arrested person signs a written promise to appear as provided for on the citation, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician; and

4. The violation does not constitute:

- a. a felony, ~~or~~
- b. negligent homicide, ~~or~~
- c. driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician, ~~or~~
- d. eluding or attempting to elude a law enforcement officer, ~~or~~
- e. operating a motor vehicle without having been issued a valid driver license, or while the driving privilege and driver license is under suspension, revocation, denial or cancellation, ~~or~~
- f. an arrest based upon an outstanding warrant, ~~or~~
- g. a traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph, ~~or~~
- h. an overweight violation, or the violation of a special permit exceeding the authorized permit weight, or

- i. a violation relating to the transportation of hazardous materials.

~~B.~~ C. If the arrested person is eligible for release on personal recognizance as provided for in subsection A of this section, then the arresting officer shall:

1. Designate the traffic charge;
2. Record information from the arrested person's driver license on the citation form, including the name, address, date of birth, personal description, type of driver license, driver license number, issuing state, and expiration date;
3. Record the motor vehicle make, model and tag information;
4. Record the arraignment date and time on the citation; and
5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's driving privilege and driver license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

~~C.~~ D. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or the attorney for that person. If the arraignment is continued or rescheduled, the ~~arrested person~~ defendant shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than

one time. Provided, however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in subsection ~~D~~ E of this section.

~~D~~. E. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before the defendant is required to appear for arraignment by indicating such plea on the copy of the citation furnished to the defendant or on a legible copy thereof, together with the date of the plea and signature. The defendant shall be responsible for assuring full payment of the fine and costs to the appropriate court clerk. Payment of the fine and costs may be made by personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in an amount prescribed as bail for the offense. Provided, however, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be:

1. As prescribed in Section 1115.3 of this title as bail for the violation; ~~or~~

2. In case of a municipal violation, as prescribed by municipal ordinance for the violation charged; or

3. In the absence of such law or ordinance, then as prescribed by the court.

~~E.~~ F. If, pursuant to the provisions of subsection ~~D~~ E of this section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment on or before the pay or appear date, the court may issue a warrant for the arrest of the defendant ~~and the~~ A failure to appear shall have the same weight as a plea of nolo contendere. Upon expiration

of the pay or appear date, the court clerk shall notify the defendant by mailing a notice of intent to request the court to authorize any or all of the following sanctions:

1. A warrant for the arrest of the defendant;
2. If the arrest was for a traffic accident, suspension of the driving privileges and driver license of the defendant;
3. If the arrest was for a wildlife offense, suspension or any license issued by the Department of Wildlife Conservation, if applicable; and
4. A judgment equal to the bond schedule published for the violation in order to satisfy all fines and costs, as required by law, plus the costs of all notices and collection costs incurred.

G. If the defendant was arrested for a traffic offense, then the following provisions shall apply, in addition to subsection F of this section:

1. The municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the Department of Public Safety that:

- a. the defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation,
- b. the defendant has failed to appear for arraignment without good cause shown,
- c. the defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation, and
- d. the citation has not been satisfied as provided by law.

Additionally, the court clerk shall request the Department of Public Safety to either suspend the ~~defendant's~~ driving privilege of the

defendant and driver license ~~to operate a motor vehicle in this~~
~~state~~, or notify the ~~defendant's~~ home state of the defendant and
request suspension of the ~~defendant's~~ driving privilege and driver
license of the defendant in accordance with the provisions of the
Nonresident Violator Compact. Such notice and request shall be on a
form approved or furnished by the Department of Public Safety.

2. The court clerk shall not process the notification and
request provided for in paragraph 1 of this subsection if, with
respect to such charges:

- a. the defendant was arraigned, posted bail, paid a fine,
was jailed, or otherwise settled the case, ~~or~~
- b. the defendant was not released upon personal
recognizance upon a signed written promise to appear
as provided for in this section or if released, was
not permitted to remain on such personal recognizance
for arraignment, ~~or~~
- c. the violation relates to parking or standing, an
overweight violation, an overweight permit or the
transportation of hazardous materials, or
- d. a period of one hundred twenty (120) calendar days or
more has elapsed from the date the citation was issued
by the arresting officer.

~~F.~~ 3. Following receipt of the notice and request from the
court clerk for driving privilege and driver license suspension as
provided for in ~~subsection E~~ paragraph 1 of this ~~section~~ subsection,
the Department of Public Safety shall proceed as provided for in
Section 1115.5 of this title.

~~G.~~ 4. The municipal or district court clerk shall maintain a
record of each request for driving privilege and driver license
suspension submitted to the Department of Public Safety pursuant to
the provisions of this section. When the court or court clerk
receives appropriate bail or payment of the fine and costs, settles

the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if the defendant personally appears, or shall mail such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall, in all other cases, notify the Department, of the resolution of the case. The form of proof and the procedures for notification shall be approved by the Department of Public Safety. Provided, however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the State of Oklahoma or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

H. The court clerk shall inform the court if the defendant has not responded to the notice of intent, as required by subsection F of this section, within thirty (30) days of the mailing of the notice to the address on the arrest citation. The court may issue a warrant for failure to appear by the defendant, reduce the financial obligation to judgment equal to the amount of the bond schedule plus all costs incurred in mailing notices, and a ten percent (10%) surcharge to the court fund for the necessity of processing by the court clerk. The judgment shall be for the purpose of collecting and apportioning all fines and costs, as required by law.

I. Collection of a judgment shall be a condition precedent to the request for reinstatement of any license suspended by the default of the defendant upon his or her duty to pay or appear on the arrest citation.

J. Failure to appear on the arrest citation shall be considered a default in the nature of a plea of nolo contendere resulting in a finding of guilt based upon the facts appearing solely on the face of the citation. The filing of a properly completed citation with the court shall constitute prima facie evidence of the merits of the case. If the court finds that the prima facie evidence is insufficient to show probable cause, no judgment shall be ordered. Upon such finding, the court may either dismiss the citation without costs or issue a warrant for the arrest of the defendant and the suspension of any applicable licenses, as provided by this section. Upon the arrest or appearance of the defendant, the matter shall be set for disposition upon the next applicable term or docket of the court. The court shall annotate on the arrest citation the action that was taken, and that information shall be forwarded by the court clerk as part of the abstract provided to the Department of Public Safety or the Department of Wildlife Conservation, as applicable.

K. At the court appearance, the defendant may show cause to the court for his or her failure to pay or appear, if the appearance occurs within one (1) year of the action by the court or within one (1) year of the action set forth in subsection J of this section. If no action is taken by the appearance of the defendant within one (1) year, the order shall be final and unappealable. If the defendant appears within one (1) year and shows to the court by clear and convincing evidence that his or her failure to pay or appear was through no willful fault or failure on his or her part, the court may set aside its prior actions and set the matter for hearing if to do so would be in the best interest of the public and in the interest of justice. In such event, the defendant shall post an appearance bond as provided in Section 1105 of this title, subject to all sanctions provided therein for failure to appear or comply with reasonable bond conditions. No forfeiture shall take

place as to such cases, however all costs of notices and recovery shall be assessed as further costs of the action.

SECTION 6. AMENDATORY 40 O.S. 2001, Section 552, is amended to read as follows:

Section 552. As used in the Standards for Workplace Drug and Alcohol Testing Act:

1. "Alcohol" means ethyl alcohol or ethanol;
2. "Applicant" means a person who has applied for a position with an employer;
3. "Board" means the State Board of Health;
4. "Confirmation test" means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the same sample and which uses different chemical principles and is of equal or greater accuracy than the prior drug or alcohol test;
5. "Department" means the State Department of Health;
6. "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed herein;
7. "Drug or alcohol test" means a chemical test administered for the purpose of determining the presence or absence of a drug or its metabolites or alcohol in a person's bodily tissue, fluids or products;
8. "Employee" means any person who supplies a service for remuneration or pursuant to any contract for hire to a private or public employer in this state;
9. "Employer" means any person, firm, corporation, partnership, association, nonprofit organization or public employer, which has one or more employees within this state, or which has offered or may offer employment to one or more individuals in this state;
10. "Public employer" means the State of Oklahoma or any political subdivision thereof, including any department, agency,

board, commission, institution, authority, public trust, municipality, county, district or instrumentalities thereof;

11. "Random selection basis" means a mechanism for selecting employees for drug or alcohol testing that:

- a. results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and
- b. does not give an employer discretion to waive the selection of any employee selected under the mechanism;

12. "Reasonable suspicion" means a belief that an employee is using or has used drugs or alcohol in violation of the employer's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:

- a. observable phenomena, such as:
 - (1) the physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty, or
 - (2) the direct observation of drug or alcohol use while at work or on duty,
- b. a report of drug or alcohol use while at work or on duty, provided by reliable and credible sources and which has been independently corroborated,
- c. evidence that an individual has tampered with a drug or alcohol test during his employment with the current employer, or
- d. evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while on duty or while on the employer's premises or operating the employer's vehicle, machinery or equipment;

13. "Review officer" means a person, qualified by the State Board of Health, who is responsible for receiving results from a testing facility which have been generated by an employer's drug or alcohol testing program, and who has knowledge and training to interpret and evaluate an individual's test results together with the individual's medical history and any other relevant information;

14. "Sample" means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body; and

15. "Testing facility" means any person, including any laboratory, hospital, clinic or facility, either off or on the premises of the employer, which provides laboratory services to test for the presence of drugs or alcohol in the human body. The administration of on-site drug or alcohol screening tests to applicants or employees to screen out negative test results are not laboratory services under this paragraph, provided the on-site tests used are cleared by the federal Food and Drug Administration for commercial marketing or by the National Highway Traffic Safety Administration for alcohol testing, and all positive results of such tests are confirmed by a testing facility in accordance with the Standards for Workplace Drug and Alcohol Testing Act.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 12-417, as amended by Section 1, Chapter 35, O.S.L. 2002 (47 O.S. Supp. 2004, Section 12-417), is amended to read as follows:

Section 12-417. A. 1. Every operator and front seat passenger of a passenger car operated in this state shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the motor vehicle when manufactured pursuant to 49 C.F.R. § 571.208.

2. For the purposes of this section, "passenger car" shall mean "vehicle" as defined in Section 1102 of this title. "Passenger car" shall include the passenger compartment of pickups, vans, minivans,

and sport utility vehicles. "Passenger car" shall not include trucks, truck-tractors, recreational vehicles, motorcycles, or motorized bicycles. "Passenger car" shall not include a vehicle used primarily for farm use which is registered and licensed pursuant to the provisions of Section 1134 of this title.

B. ~~This section shall not apply to any person who possesses a written verification from a physician licensed in this state that the person~~ The Commissioner of Public Safety, upon application from a person who, for medical reasons, is unable to wear a safety seat belt system ~~for medical reasons~~ supported by written attestation of such fact from a physician licensed pursuant to Section 495 of Title 59 of the Oklahoma Statutes, may issue to the person an exemption from the provisions of this section. The exemption shall be in the form of a restriction appearing on the driver license of the person and shall remain in effect until the expiration date of the driver license. Nothing in this paragraph shall be construed to prevent the person from applying for another exemption as provided for in this section. Provided, the The issuance of such verification an attestation by a physician and the subsequent issuance of an exemption by the Commissioner, in good faith, shall not give rise to, nor shall such the physician and the state thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of such failure of the person to wear a safety seat belt system.

C. This section shall not apply to an operator of a motor vehicle while performing official duties as a route carrier of the U.S. Postal Service.

D. The Department of Public Safety shall not record or assess points for violations of this section on any license holder's traffic record maintained by the Department.

E. Fine and court costs for violating the provisions of this section shall not exceed Twenty Dollars (\$20.00).

F. Municipalities may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of those ordinances shall be the same as provided for in this section, and the enforcement provisions under those ordinances shall not be more stringent than those of this section.

SECTION 8. AMENDATORY 47 O.S. 2001, Section 12-422, as amended by Section 24, Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2004, Section 12-422), is amended to read as follows:

Section 12-422. A. As used in this section:

1. "Glass coating material" or "sunscreening devices" means materials, films, applications or devices which are used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of sun, but shall not include materials, films, applications, or devices with a mirrored or mirror-like finish;

2. "Light transmission" means the percentage of total light which is allowed to pass through a window;

3. "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, which is reflected outward by the glass coating material or sunscreening device to the amount of total light falling on the glass coating material;

4. "Manufacturer" means:

a. a person who engages in the manufacturing or assembling of sunscreening devices, or

b. a person who fabricates, laminates, or tempers glazing materials, incorporating the capacity to reflect or to reduce the transmittance of light during the manufacturing process; and

5. ~~"Multipurpose vehicle" means any vehicle capable of carrying goods or persons and which is manufactured on a truck frame; and~~

~~6.~~ "Window" means the windshield, side or rear glass of a motor vehicle, including any glazing material, glass coating or sunscreening device.

B. It is unlawful, except as provided by this section, for a person to sell, install, or to operate a motor vehicle with any object or material placed:

1. Placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows, ~~or with any object or material~~ ~~so~~; or

2. So placed, displayed, installed, affixed, or applied in or upon the motor vehicle so as to obstruct or reduce a driver's clear view through the windshield or side or rear windows, ~~except as provided by this section~~.

C. It is unlawful for any person to place, install, affix, or apply any transparent material upon the windshield or side or rear windows of any motor vehicle if such material alters the color or reduces the light transmittance of such windshield or side or rear windows except as provided in this section.

D. This section shall not apply to:

1. Side or back windows that have a substance or material in conjunction with glazing material that has a light transmission of at least twenty-five percent (25%) and a luminous reflectance of at most twenty-five percent (25%);

2. Front side wing vents and windows that have a substance or material not attached in conjunction with glazing material which is used by a vehicle operator on a moving vehicle during daylight hours;

3. Rearview mirrors;

4. Adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glass;

5. Signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield

farthest removed from the driver or signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield nearest the driver;

6. Direction, designation, or termination signs on buses, if the signs do not interfere with the driver's clear view of approaching traffic;

7. Rear window wiper motors;

8. Rear window defrosters or defoggers;

9. Rear truck lid handle or hinges;

10. Side windows to the rear of the driver or back windows that have a substance or material in conjunction with glazing material that has a light transmission of at least ten percent (10%) and a luminous reflectance of at most twenty-five percent (25%) on all vehicles manufactured prior to 1996 year models, if the motor vehicle is equipped with outside mirrors on both left and right hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least two hundred (200) feet to the rear of the motor vehicle;

11. Transparent material which is installed, affixed, or applied to the topmost portion of the windshield if:

a. it does not extend downward beyond the AS-1 line or more than five (5) inches from the top of the windshield, whichever is closer to the top of the windshield, and

b. the material is not red or amber in color;

12. All windows to the rear of the driver's seat in a vehicle licensed as a bus, as defined by Section 1-105 of this title, or a taxicab, as defined by Section 1-174 of this title;

13. Vehicles not subject to registration in the State of Oklahoma;

14. Implements of husbandry as defined by this title; and

~~15. Automobile manufacturers that comply with 49 C.F.R., Section 571.205, or to multipurpose vehicles with windows that are in compliance with 49 C.F.R., Section 571.205, regardless of whether the glass coating material or sunscreening device is added by the automobile manufacturer or manufacturer as defined by this section; and~~

~~16. Law enforcement vehicles which are owned by the state or a political subdivision of the state.~~

E. This section shall not prohibit the use and placement of federal, state, or political subdivision certificates on any window as are required by applicable laws.

F. Louvered materials, when installed as designed, shall not reduce the area of the driver's visibility below fifty percent (50%) as measured on a horizontal plane. When such materials are used in conjunction with the rear window, the measurement shall be made based upon the driver's view from inside the rearview mirror.

G. A person who sells or installs any product regulated by this section shall certify in a written statement, which shall be a part of the contract for sale or installation and shall be in bold-face type, that:

1. The product sold or installed is in compliance with the reflectivity and transmittance requirements of this section;

2. The installation of the product to the driver's or passenger's side window may be illegal in some states.

H. The Commissioner of Public Safety, upon application from a person required for medical reasons to be shielded from the direct rays of the sun, supported by written attestation of such fact from a physician licensed pursuant to Section 495 of Title 59 of the Oklahoma Statutes, may issue an exemption from the provisions of this section for a motor vehicle belonging to such person or in which such person is a habitual passenger. Any person may operate a vehicle or alter the color or reduce the light transmitted through

the side or rear windows of a vehicle in accordance with an exemption issued by the Commissioner.

I. Any person who violates any provision of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished as provided for in Section 17-101 of this title.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 1113, as last amended by Section 4, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2004, Section 1113), is amended to read as follows:

Section 1113. A. 1. Upon the filing of a registration application and the payment of the fees provided for in the Oklahoma Vehicle License and Registration Act, the Oklahoma Tax Commission shall assign to the vehicle described in the application a distinctive number, and issue to the owner of the vehicle a certificate of registration, one license plate and a yearly decal. For each subsequent registration year, the Tax Commission shall issue a yearly decal to be affixed to the license plate. The yearly decal shall have an identification number and the last two numbers of the registration year for which it shall expire. Except as provided by Section 1113A of this title, the license plate shall be affixed to the exterior of the vehicle until a replacement license plate is applied for. If the owner applies for a replacement license plate, the Tax Commission shall charge the fee provided for in Section 1114 of this title. The yearly decal will validate the license plate for each registration period other than the year the license plate is issued. The license plate and decal shall be of such size, color, design and numbering as the Tax Commission may direct. However, yearly decals issued to the owner of a vehicle who has filed an affidavit with the appropriate motor license agent in accordance with Section 7-607 of this title shall be a separate and distinct color from all other decals issued under this section.

2. The license plate shall be securely attached to the rear of the vehicle, except truck-tractor plates which shall be attached to

the front of the vehicle. The Tax Commission may, with the concurrence of the Department of Public Safety, by Joint Rule, change and direct the manner, place and location of display of any vehicle license plate when such action is deemed in the public interest. The license plate, decal and all letters and numbers shall be clearly visible at all times. The operation of a vehicle in this state, regardless of where such vehicle is registered, upon which the license plate is covered, overlaid or otherwise screened with any material, whether such material be clear, translucent, tinted or opaque, shall be a violation of this paragraph.

3. Upon payment of the annual registration fee provided in Section 1133 of this title, the Tax Commission or a motor license agent may issue a permanent nonexpiring license plate to an owner of one hundred or more commercial motor vehicles and for vehicles registered under the provisions of Section 1120 of this title. Upon payment of the annual registration fee, the Tax Commission shall issue a certificate of registration that shall be carried at all times in the vehicle for which it is issued. Provided, if the registrant submits its application through electronic means, such qualified owners of one hundred or more commercial motor vehicles, properly registered pursuant to the provisions of Section 1133 of this title, may elect to receive a permanent certificate of registration that shall be carried at all times in the vehicle for which it is issued.

4. All vehicles owned by the Department of Public Safety are hereby exempt from the payment of registration fees required by this title. Provided, all of the vehicles shall be registered and shall otherwise comply with the provisions of the Oklahoma Vehicle License and Registration Act.

B. The license plates required under the provisions of this title shall conform to the requirements and specifications listed hereinafter:

1. Each license plate shall have a space for the placement of the yearly decals for each succeeding year of registration after the initial issue;

2. The provisions of the Oklahoma Vehicle License and Registration Act regarding the issuance of yearly decals shall not apply to the issuance of apportioned license plates, including license plates for state vehicles, and exempt plates for governmental entities and fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes;

3. Within the limits herein prescribed the Tax Commission shall redesign the official vehicle license plates which currently bear the legend "Oklahoma OK" or "Oklahoma is OK!" and substitute therefor the legend "Oklahoma Native America" as further described in this paragraph. Except for personalized license plates and license plates issued for motorcycles and mopeds, the emblem on the state flag of Oklahoma as provided for in Section 91 of Title 25 of the Oklahoma Statutes shall be a part of all license plates issued after December 31, 1988. The Tax Commission may continue to issue license plates with the legend "Oklahoma is OK!" or "Oklahoma OK" until any inventory of such license plates is depleted but the Tax Commission shall not produce or cause to be produced any additional license plates with these legends. Except for personalized license plates, license plates issued for commercial vehicles, and license plates issued for motorcycles and mopeds, the "Oklahoma Native America" emblem shall be a part of all license plates issued after December 31, 1993. The specifications for lettering style and appearance for the legend "Oklahoma Native America" shall be provided to the Tax Commission by the Oklahoma Tourism and Recreation Department. The license plates shall be issued with the letters and numerals in the colors of green and white. All license plates and decals shall be made with reflectorized material as a background to the letters, numbers and characters impressed thereon.

The reflectorized material shall be of such a nature as to provide effective and dependable brightness during the service period for which the license plate or decal is issued;

4. Except as otherwise provided in this subsection, the Tax Commission shall design appropriate official license plates for all state vehicles. Such license plates shall be permanent in nature and designed in such manner as to remain with the vehicle for the duration of the vehicle's life span or until the title is transferred to a nongovernmental owner;

5. Within the limits prescribed in this section, the Tax Commission shall design appropriate official license plates for vehicles of the Oklahoma Highway Patrol. The license plates shall have the legend "Oklahoma OK" and shall contain the letters "OHP" followed by the state seal and the badge number of the Highway Patrol officer to whom the vehicle is assigned. The words "Oklahoma Highway Patrol" shall also be included on such license plates; and

6. Within the limits prescribed in this section, the Tax Commission shall design appropriate official license plates for vehicles of the Oklahoma Military Department. Such license plates shall have the legend "Oklahoma OK" and shall contain the letters "OMD" followed by the state seal and three numbers or letters as designated by the Adjutant General. The words "Oklahoma Military Department" shall also be included on such license plates.

C. Where the applicant has satisfactorily shown that the applicant owns the vehicle sought to be registered but is unable to produce documentary evidence of the ownership, a license plate may be issued upon approval by the Tax Commission. In such instances the reason for not issuing a certificate of title shall be indicated on the receipt given to the applicant. It shall still be the duty of the applicant to immediately take all necessary steps to obtain the Oklahoma certificate of title and it shall be unlawful for the

applicant to sell the vehicle until the certificate has been obtained in the applicant's name.

D. The certificate of registration provided for in this section shall be in convenient form, and the certificate of registration, or a certified copy or photostatic copy thereof, duly authenticated by the Tax Commission, shall be carried at all times in or upon commercial vehicles so registered, in such manner as to permit a ready examination thereof upon demand by any peace officer of the state or duly authorized employee of the Department of Public Safety. Any such officer or agent may seize and hold such commercial vehicle when the operator of the same does not have the registration certificate in the operator's possession or when any such officer or agent determines that the registration certificate has been obtained by misrepresentation of any essential or material fact or when any number or identifying information appearing on such certificate has been changed, altered, obliterated or concealed in any way, until the proper registration or identification of such vehicle has been made or produced by the owner thereof.

E. The purchaser of a new or used manufactured home shall, within thirty (30) days of the date of purchase, register the home with the Tax Commission or a motor license agent pursuant to the provisions of Section 1117 of this title. For a new manufactured home, it shall be the responsibility of the dealer selling the home to place a temporary license plate on the home in the same manner as provided in Section 1128 of this title for other new motor vehicles. For the first year that any manufactured home is registered in this state, the Tax Commission shall issue a metal license plate which shall be affixed to the manufactured home. The temporary dealer license plate or the metal license plate shall be displayed on the manufactured home at all times when upon a public roadway; provided, a repossession affidavit issued pursuant to Sections 1110 and 1126 of this title shall be permissible in lieu of a current license

plate and decal for the purposes of removing a repossessed manufactured home to a secure location. Manufactured homes previously registered and subject to ad valorem taxation as provided by law shall have a decal affixed at the time ad valorem taxes are paid for such manufactured home; provided, for a manufactured home permanently affixed to real estate, no decal or license plate shall be required to be affixed and the owner thereof shall be given a receipt upon payment of ad valorem taxes due on the home. The Tax Commission shall make sufficient plates and decals available to the various motor license agents of the state in order for an owner of a manufactured home to acquire the plate or decal. A One Dollar (\$1.00) fee shall be charged for issuance of any plate or decal. The fee shall be apportioned each month to the General Revenue Fund of the State Treasury.

F. The manufactured home license plate shall be designed so that it is easily visible for purposes of verification by a county assessor that the manufactured home is properly assessed for ad valorem taxation. The plate shall be designed for a yearly decal. In the first year of registration, a decal shall be issued for placement on the license plate indicating payment of applicable registration fees and excise taxes. In the second and all subsequent years for which the manufactured home is subject to ad valorem taxation, an annual decal shall be affixed to the license plate as evidence of payment of ad valorem taxes. The Tax Commission shall issue decals to the various county treasurers of the state in order for a manufactured home owner to obtain such decal each year. Upon presentation of a valid ad valorem tax receipt, the manufactured home owner shall be issued the annual decal.

G. Upon the registration of a manufactured home in this state for the first time or upon discovery of a manufactured home previously registered within this state for which the information

required by this subsection is not known, the Tax Commission shall obtain:

1. The name of the owner of the manufactured home;
2. The serial number or identification number of the manufactured home;
3. A legal description or address of the location for the home;
4. The actual retail selling price of the manufactured home excluding Oklahoma taxes;
5. The certificate of title number for the home; and
6. Any other information which the Tax Commission deems to be necessary.

The application for registration shall also include the school district in which the manufactured home is located or is to be located. The information shall be entered into a computer data system which shall be used by the Tax Commission to provide information to county assessors upon request by the assessor. The assessor may request any information from the system in order to properly assess a manufactured home for ad valorem taxation.

SECTION 10. AMENDATORY 47 O.S. 2001, Section 1137.1, is amended to read as follows:

Section 1137.1 A. Except for vehicles, travel trailers or commercial trailers which display a current Oklahoma license tag, upon the purchase or transfer of ownership of a used motor vehicle, travel trailer or commercial trailer, including an out-of-state purchase or transfer of the same, to a licensed used motor vehicle dealer, wholesale used motor vehicle dealer, used travel trailer dealer or used commercial trailer dealer, subsequently referred to in this section as "dealer", the dealer shall affix a used dealer's plate visible from the rear of the vehicle, travel trailer or commercial trailer. Such license plate shall expire on December 31 of each year. When the vehicle, travel trailer or commercial trailer is parked on the dealer's licensed place of business, it

shall not be required to have a license plate of any kind affixed. A dealer shall obtain from the Oklahoma Tax Commission at a cost of Ten Dollars (\$10.00) a dealer license plate for demonstrating, transporting or any other normal business of a dealer; provided, any dealer who operates a wrecker or towing service licensed pursuant to Sections 951 through 957 of this title shall register each wrecker vehicle and display a wrecker license plate on each vehicle as required by Section 1134.3 of this title. A dealer may obtain as many additional license plates as may be desired upon the payment of Ten Dollars (\$10.00) for each additional license plate. Use of the used dealer license plate by a licensed dealer for other than the purposes as set forth herein shall constitute grounds for revocation of the dealer's license. The Oklahoma Tax Commission shall design the official used dealer license plate to include the used dealer's license number issued to him or her each year by the Commission or the Used Motor Vehicle and Parts Commission.

B. Upon the purchase or transfer of ownership of an out-of-state used motor vehicle, travel trailer or commercial trailer to a licensed dealer, the dealer shall make application for an Oklahoma certificate of title pursuant to the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of Title 47 of the Oklahoma Statutes. Upon receipt of the Oklahoma certificate of title, the dealer shall follow the procedure as set forth in subsection A of this section. Provided, nothing in this title shall be construed as requiring a dealer to register a used motor vehicle, travel trailer or commercial trailer purchased in another state which will not be operated or sold in this state.

C. Upon sale or transfer of ownership of the used motor vehicle or travel trailer, the dealer shall place upon the reassignment portion of the certificate of title a tax stamp issued by the county treasurer of the county in which the dealer has his or her primary place of business. The tax stamp shall be issued upon payment of a

fee of Three Dollars and fifty cents (\$3.50) and shall be in lieu of the dealer's ad valorem tax on the inventories of used motor vehicles or travel trailers but shall not relieve any other property of the dealer from ad valorem taxation.

D. Upon sale of a used motor vehicle or travel trailer to another licensed dealer, the selling dealer shall place the tax stamp required in subsection C of this section upon the certificate of title. The used dealer license plate or wholesale dealer license plate shall be removed by the selling dealer. The purchasing dealer shall, at time of purchase, place his or her dealer license plate on the used motor vehicle, travel trailer or commercial trailer as provided in subsection A of this section; provided, for vehicles, travel trailers or commercial trailers purchased by a licensed used dealer at an auction, in lieu of such placement of the dealer license plate, the auction may provide temporary documentation as approved by the Director of the Motor Vehicle Division of the Oklahoma Tax Commission for the purpose of transporting such vehicle to the purchaser's point of destination. Such temporary documentation shall be valid for two (2) days following the date of sale.

E. The purchaser of every used motor vehicle, travel trailer or commercial trailer, except as otherwise provided by law, shall obtain registration and title for the vehicle or trailer within thirty (30) days from the date of purchase of same. It shall be the responsibility of the selling dealer to place a temporary license plate, in size similar to the permanent Oklahoma license plate but of a fibrous substance, upon a used motor vehicle, travel trailer or commercial trailer when a transaction is completed for the sale of said vehicle. The temporary license plate shall show the license number which is issued to the dealer each year by the Oklahoma Tax Commission or the Used Motor Vehicle and Parts Commission, the date the used motor vehicle, travel trailer or commercial trailer was

purchased and the company name of the selling dealer. Such temporary license plate shall be valid for a period of thirty (30) days from the date of purchase. Use of the temporary license by a dealer for other than the purposes set forth herein shall constitute grounds for revocation of the dealer's license to conduct business. The temporary license plate shall be affixed to the rear window of the vehicle sold. Purchasers of a commercial trailer shall affix the temporary license plate to the rear of the commercial trailer. The purchaser shall display the temporary license plate for a period not to exceed thirty (30) days or until registration and title are obtained as provided in this section.

The provisions of this subsection on temporary licenses shall apply to nonresidents who purchase a used motor vehicle, travel trailer or commercial trailer within this state that is to be licensed in another state. The nonresident purchaser shall be allowed to operate the vehicle or trailer within the state with a temporary license plate for a period not to exceed thirty (30) days from date of purchase. Any nonresident purchaser found to be operating a used motor vehicle, travel trailer or commercial trailer within this state after thirty (30) days shall be subject to the registration fees of this state upon the same terms and conditions applying to residents of this state.

F. It shall be unlawful for any dealer to procure the registration and licensing of any used motor vehicle, travel trailer or commercial trailer sold by the dealer or to act as the agent for the purchaser in the procurement of the registration and licensing of the purchaser's used vehicle, travel trailer or commercial trailer. A license of any dealer violating the provision of this section may be revoked.

G. Dealers following the procedure set forth herein shall not be required to register vehicles, travel trailers or commercial trailers to which this section applies, nor will the registration

fee otherwise required be assessed. Provided, dealers shall not purchase or trade for a used motor vehicle, travel trailer or commercial trailer on which the registration therefor has been expired for a period exceeding thirty (30) days without obtaining current registration therefor.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 4005, is amended to read as follows:

Section 4005. A. A vessel or motor shall not be required to be titled and registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, if:

1. Such vessel or motor is owned by the United States, a state other than the State of Oklahoma, any agency thereof, or any subdivision of the state; provided, however, if such vessel is used for recreational or rental purposes on the waters of this state, said vessel shall be registered and numbered in accordance with Section 4002 et seq. of this title;

2. Such vessel or motor is owned by a visiting nonresident and is currently registered in another state. Provided that if any such vessel or motor remains in Oklahoma in excess of sixty (60) calendar days, such vessel or motor shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act and the registration fees due thereon from the date of entry into Oklahoma must be paid;

3. Such vessel or motor is from a country other than the United States provided such vessel or motor does not remain in Oklahoma in excess of sixty (60) calendar days;

4. Such vessel is used exclusively and solely as a lifeboat;

5. Such vessel is used exclusively and solely for racing purposes;

6. Such vessel is a commercial flotation device which is issued a permit by the Oklahoma Scenic River Commission pursuant to the

provisions of Section 1461 et seq. of Title 82 of the Oklahoma Statutes; provided, a commercial flotation device shall be required to be titled pursuant to the provisions of Section 4008 of this title; or

7. Such vessel is a documented vessel provided such documented vessel shall be required to be registered pursuant to the provisions of Section 4016 of this title.

B. Motors classified as inboard motors shall not be required to be titled or registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act.

C. All vessels and motors which are owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which, under the law, would be exempt from direct ad valorem taxation, shall be titled and registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act. Provided, all vessels and motors titled and registered to the Department of Public Safety shall be exempt from all title and registration fees.

D. All other vessels shall be titled and registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act.

SECTION 12. AMENDATORY 63 O.S. 2001, Section 4009, is amended to read as follows:

Section 4009. A. The application for a certificate of title and registration for a vessel or an outboard motor shall be upon a form furnished by the Oklahoma Tax Commission and shall contain:

1. A full description of the vessel or outboard motor;
2. The manufacturer's serial and model number or other identification number;
3. The length of the vessel;
4. The date on which first sold by the manufacturer or dealer to the owner;
5. Any distinguishing marks;

6. A statement of the applicant's source of title;

7. Whether the vessel is a documented vessel and the number assigned to such vessel;

8. Any security interest upon said vessel or outboard motor, or vessel and motor; and

9. Such other information as the Commission may require.

Every original or duplicate certificate of title and registration for a vessel or an outboard motor shall contain all items listed in this subsection.

B. To obtain an original certificate of title for a vessel or outboard motor that is being registered for the first time in this state or for a vessel or outboard motor that 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 or at the discretion of the Commission a copy of the 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 Commission. A manufacturer's certificate of origin shall contain:

1. The manufacturer's serial or other identification number;

2. Date on which first sold by the manufacturer to the dealer;

3. Any distinguishing marks including model and the year same was made;

4. A statement of any security interests upon said vessel or outboard motor, or vessel and motor; and

5. Such other information as the Commission may require.

C. In the absence of a dealer's or manufacturer's number, the Commission may assign such identifying number to the vessel or outboard motor, which shall be permanently stamped, burned or pressed into or attached onto such vessel or outboard motor.

D. Every dealer selling new or used vessels or outboard motors and every individual not licensed as a dealer who sells a new or used vessel or outboard motor shall verify the hull identification number or serial number is the same as the number on the current registration of the vessel or outboard motor. The seller of the vessel or outboard motor shall sign a notarized affidavit, under penalty of perjury, affirming the numbers are the same.

E. 1. Before a homemade vessel is issued a hull identification number from the Commission, the vessel and the motor shall be inspected by a commissioned officer of the Oklahoma Highway Patrol Division of the Department of Public Safety or by any other employee of the Department or any other law enforcement officer of the state as the Commissioner of Public Safety may designate, pursuant to the rules promulgated by the Commissioner of Public Safety. For the purposes of this act, "homemade vessel" means any vessel not allotted a hull identification number (HIN) by a manufacturer, and specifically excludes any vessel upon which the hull identification number has been covered, altered, defaced, destroyed, or removed.

2. The Department of Public Safety is hereby granted authority and jurisdiction, pursuant to Article 1 of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, to promulgate, administer and enforce all necessary rules deemed necessary to implement the provisions of this section.

3. The Department of Public Safety shall prescribe all forms deemed necessary to implement the provisions of this section.

F. It shall be unlawful to:

1. Improperly display or fail to display a vessel's hull identification number;

2. Operate or possess a vessel on which the hull identification number has been removed; or

3. Operate or possess a motor on which the serial number has been removed.

G. When registering in this state a vessel 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, the Oklahoma Tax Commission or the motor license agent shall complete a lien entry form as prescribed by said 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 4013 of this title. For completing the lien entry form and recording the security interest on the certificate of title, the 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 Vessel and Motor Registration Act.

H. Upon payment of all fees and taxes, a certificate of title, a certificate of registration and, for a vessel, two registration decals or, for an outboard motor, one registration decal shall be delivered to the applicant. Provided, yearly decals shall be issued for vessels and motors titled and registered to the Department of Public Safety.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 4021, as amended by Section 14, Chapter 534, O.S.L. 2004 (63 O.S. Supp. 2004, Section 4021), is amended to read as follows:

Section 4021. A. The application required for the initial and annual registration of a vessel or a motor shall be accompanied by payment of the following fees:

1. Where the manufacturer's factory delivered price, or in the absence of such price being published in a recognized publication for the use of marine dealers and/or for purposes of insurance and financing firms, where the provable original or new cost of all materials, is One Hundred Fifty Dollars (\$150.00) or less, the registration and license fee for the first and for each succeeding year's registration shall be One Dollar (\$1.00);

2. Where the manufacturer's factory delivered price, or in the absence of such price being published as provided in paragraph 1 of this section, where the value of such vessel or motor is determined and fixed as above required and, is in excess of One Hundred Fifty Dollars (\$150.00), there shall be added to the fee of One Dollar (\$1.00), the sum of One Dollar (\$1.00) for each One Hundred Dollars (\$100.00) or any fraction thereof, in excess of One Hundred Fifty Dollars (\$150.00) provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

3. After the first year's registration in this state under the Oklahoma Vessel and Motor Registration Act of any new vessel or new motor under paragraph 2 of this subsection, the registration for the second year shall be ninety percent (90%) of the fee computed and assessed hereunder for the first year, and thereafter, such fee shall be computed and assessed at ninety percent (90%) of the previous year's fee and shall be so computed and assessed for the next nine (9) successive years provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

4. The initial and annual registration fee for any vessel which is a part of a fleet used for lodging and for which a rental fee and sales tax are collected shall be Forty Dollars (\$40.00) in lieu of the fees required by paragraphs 1 through 3 of this subsection. For the purpose of this paragraph, "fleet" means twenty or more vessels operated by a business organization from a single anchorage. The fee provided for in this paragraph may be reduced annually to zero until the total reduction equals the difference between the sum of the fees paid pursuant to paragraphs 1 through 3 of this subsection for the two registration years preceding January 1, 1990, and the fee provided for in this paragraph;

5. For any vessel or motor owned and numbered, registered or licensed prior to January 1, 1990, in this or any other state, or in the absence of such registration upon proof of the year, model and

age of same, the registration fee shall be computed and assessed at the rate hereinabove provided for a new vessel or motor based on the value thereof determined as provided in this subsection, but reduced as though same had been registered for each prior year of its existence. Except as provided in paragraph 1 of this subsection, the registration fee for the eleventh year computed in accordance with the provisions of this subsection shall be the amount of the fee to be assessed for such eleventh year and shall be the minimum annual registration fee for such vessel or motor for any subsequent year; and

6. The initial and annual registration fee for any vessel or motor which is not being used in a trade or business or for any commercial purpose and is owned by:

- a. a nonresident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- b. a resident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- c. the spouse, who resides in Oklahoma, of a resident or nonresident member of the Armed Forces of the United States serving in a foreign country, or
- d. any Oklahoma resident who is stationed out of state due to an official assignment of the Armed Forces of the United States,

shall be the lesser of either a Fifteen Dollar (\$15.00) registration fee or the fee computed and assessed for vessels or motors of similar age and model pursuant to this section.

B. As used in this section, the term "manufacturer's factory delivered price" shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer.

C. The Oklahoma Tax Commission shall assess the registration fees and penalties for the year or years a vessel or motor was not registered as provided in the Oklahoma Vessel and Motor Registration Act. For vessels or motors not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

D. Upon each vessel or motor repossessed by a mortgagee, a fee of Forty-six Dollars (\$46.00) shall be assessed. This fee shall be in lieu of any applicable vessel or motor excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such vessel or motors shall receive Seven Dollars (\$7.00) to be deducted from the license fee specified in this paragraph for each application accepted.

E. All vessels or motors owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which under the law would be exempt from direct ad valorem taxation, shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act for an annual fee of Two Dollars and twenty-five cents (\$2.25) irrespective of whether registered by a motor license agent or the Tax Commission.

F. All vessels and motors owned by:

1. By the Boy Scouts of America, the Girl Scouts of U.S.A., and the ~~Campfire Girls~~ Camp Fire USA, devoted exclusively to youth programs emphasizing physical fitness, character development and citizenship training; and

2. By the Department of Public Safety;

are hereby exempt from the payment of registration fees required by this section. Provided all of such vessels or motors shall be registered and shall otherwise comply with the provisions of the Oklahoma Vessel and Motor Registration Act.

G. A credit shall be allowed with respect to the fee for registration of any new vessel or new motor, when such new vessel or motor is a replacement for:

1. A new original vessel or new original motor which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vessel or new original motor as certified by a police report or other documentation as required by the Tax Commission; or

2. A defective new original vessel or new original motor returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vessel or new original motor as certified by the manufacturer.

Such credit shall be in the amount of the fee for registration which was paid for the new original vessel or new original motor and shall be applied to the registration fee for the replacement vessel or motor. In no event will said credit be refunded.

H. Upon proper proof of a lost certificate of registration being made to the Tax Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by the Oklahoma Vessel and Motor Registration Act, a duplicate certificate of registration shall be issued to the applicant. The charge for such duplicate certificate of registration shall be Two Dollars and twenty-five cents (\$2.25), which charge shall be in addition to any other fees imposed by Section 4022 of this title for any such vessel or motor.

I. In addition to any other fees levied by the Oklahoma Vessel and Motor Registration Act, there is levied and there shall be paid to the Tax Commission a fee of One Dollar (\$1.00) upon every vessel or motor for which a registration or license fee is required pursuant to the provisions of this section. The fee shall accrue and shall be collected upon each vessel or motor under the same circumstances and shall be payable in the same manner and times as

apply to vessel and motor licenses and registrations under the provisions of the Oklahoma Vessel and Motor Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

Monies collected pursuant to this subsection shall be apportioned by the Tax Commission to the State Treasurer for deposit in the Trauma Care Assistance Revolving Fund created in Section 330.97 of this title.

The collection and payment of the fee shall be a prerequisite to license or registration of any vessel or motor.

J. If a vessel or motor is donated to a nonprofit charitable organization, the nonprofit charitable organization shall be exempt from paying any current or past due registration fees, excise tax, transfer fees, and penalties and interest; provided, subsequent to such donation, if the person, entity or party acting on another's behalf who donated the vessel or motor, purchases the same vessel or motor from the nonprofit charitable organization receiving the original donation, such person, entity or party acting on another's behalf shall be liable for all current and past due registration fees, excise tax, transfer fees, and penalties and interest on such vehicle.

SECTION 14. AMENDATORY 63 O.S. 2001, Section 4206, is amended to read as follows:

Section 4206. A. 1. The operator of a vessel less than twenty-six (26) feet in length, while under way, shall require each passenger who is twelve (12) years of age or younger to wear a personal flotation device. Every operator and passenger, regardless of age, shall wear a personal flotation device at all times between the hours of one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise while the vessel is traveling at greater than an idle speed.

2. Any person operating or manipulating, or who is a passenger on a personal watercraft, water skis, a sailboard or a similar device shall wear a personal flotation device approved and designed for the activity in which the person is engaged.

B. Each personal flotation device shall be in good and serviceable condition, of the type prescribed by the United States Coast Guard and of a size suitable to the person who is or will be wearing it. A ski belt is not a United States Coast Guard approved personal flotation device.

SECTION 15. AMENDATORY 63 O.S. 2001, Section 4219, is amended to read as follows:

Section 4219. It shall be unlawful for any person to operate any vessel upon the waters of this state ~~which are under the jurisdiction of the Grand River Dam Authority (GRDA),~~ between the hours of one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise at any speed in excess of thirty-five (35) miles per hour. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00).

SECTION 16. REPEALER Section 1, Chapter 395, O.S.L. 1998, is hereby repealed.

SECTION 17. REPEALER Section 2, Chapter 148, O.S.L. 2004 (22 O.S. Supp. 2004, Section 1108.2), is hereby repealed.

SECTION 18. This act shall become effective November 1, 2005.

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