STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2080 By: Jackson

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 2001, Sections 14-109, as amended by Section 2, Chapter 286, O.S.L. 2002 and 14-116a, as amended by Section 11, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2006, Sections 14-109 and 14-116a), which relate to load limits and transportation of manufactured homes; providing tiered fine schedule for overweight violations; providing for increase in fine under certain circumstances; requiring assignment of safety ratings under certain circumstances; stating time limitation; providing notice procedures and guidelines; prohibiting operation of commercial motor vehicles under certain circumstances; providing an exception; prohibiting agencies from using motor carriers with certain rating; providing penalty for certain violation; providing administrative review of proposed or final safety rating; providing request and administrative review procedures; providing for request of rating change; providing procedures for rating change request; making final ratings available to certain agencies and the public; providing for assessment of administrative penalties; defining term; amending 47 O.S. 2001, Section 1129, as amended by Section 19, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2006, Section 1129), which relates to the Oklahoma Vehicle License and Registration Act; modifying requirements for use of special mobilized machinery; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 14-109, as amended by Section 2, Chapter 286, O.S.L. 2002 (47 O.S. Supp. 2006, Section 14-109), is amended to read as follows:

Section 14-109. A. On any road or highway:

1. No single axle weight shall exceed twenty thousand (20,000) pounds; and

2. The total gross weight in pounds imposed thereon by a vehicle or combination of vehicles shall not exceed the value given in the following table corresponding to the distance in feet between the extreme axles of the group measured longitudinally to the nearest foot.

Distance in Feet Between the Extremes of Any Group of 2 or More Consecutive Axles	Maximum Load in Pounds Carried on Any Group of 2 or More Consecutive Axles				
	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles
4	34,000	------	------	------	------
5	34,000	------	------	------	------
6	34,000	------	------	------	------
7	34,000	------	------	------	------
8	34,000	42,000	------	------	------
9	39,000	42,500	------	------	------
10	40,000	43,500	------	------	------

11	------	44,000	------	------	------
12	------	45,000	50,000	------	------
13	------	45,500	50,500	------	------
14	------	46,500	51,500	------	------
15	------	47,000	52,000	------	------
16	------	48,000	52,500	58,000	------
17	------	48,500	53,500	58,500	------
18	------	49,500	54,000	59,000	------
19	------	50,000	54,500	60,000	------
20	------	51,000	55,500	60,500	66,000
21	------	51,500	56,000	61,000	66,500
22	------	52,500	56,500	61,500	67,000
23	------	53,000	57,500	62,500	68,000
24	------	54,000	58,000	63,000	68,500
25	------	54,500	58,500	63,500	69,000
26	------	56,000	59,500	64,000	69,500
27	------	57,500	60,000	65,000	70,000
28	------	59,000	60,500	65,500	71,000
29	------	60,500	61,500	66,000	71,500
30	------	62,000	62,000	66,500	72,000
31	------	63,500	63,500	67,000	72,500
32	------	64,000	64,000	68,000	73,500
33	------	------	64,500	68,500	74,000
34	------	------	65,000	69,000	74,500

35	------	------	66,000	70,000	75,000
36	------	------	68,000	70,500	75,500
37	------	------	68,000	71,000	76,000
38	------	------	69,000	72,000	77,000
39	------	------	70,000	72,500	77,500
40	------	------	71,000	73,000	78,000
41	------	------	72,000	73,500	78,500
42	------	------	73,000	74,000	79,000
43	------	------	73,280	75,000	80,000
44	------	------	73,280	75,500	80,500
45	------	------	73,280	76,000	81,000
46	------	------	73,280	76,500	81,500
47	------	------	73,500	77,500	82,000
48	------	------	74,000	78,000	83,000
49	------	------	74,500	78,500	83,500
50	------	------	75,500	79,000	84,000
51	------	------	76,000	80,000	84,500
52	------	------	76,500	80,500	85,000
53	------	------	77,500	81,000	86,000
54	------	------	78,000	81,500	86,500
55	------	------	78,500	82,500	87,000
56	------	------	79,500	83,000	87,500
57	------	------	80,000	83,500	88,000
58	------	------	------	84,000	89,000

59	------	------	------	85,000	89,500
60	------	------	------	85,500	90,000

B. Except as to gross limits, the table in subsection A of this section shall not apply to a truck-tractor and dump semitrailer when used as a combination unit. In no event shall the maximum load in pounds carried by any set of tandem axles exceed thirty-four thousand (34,000) pounds for vehicles exempt from the table; however, any vehicle operating with split tandem axles or tri-axles shall adhere to the table.

C. Special permits may be issued as provided in this title for divisible loads for vehicle configurations in excess of six (6) axles. The permits may not exceed the Table "B" federal weights formula imposed by Title 23, U.S. Code, Section 127. Vehicles moving under the permits shall not traverse H-15 bridges or less without the express approval of the Secretary of Transportation.

D. Except for loads moving under special permits as provided in this title, no department or agency of this state or any county, city, or public entity thereof shall pay for any material that exceeds the legal weight limits moving in interstate or intrastate commerce in excess of the legal load limits of this state.

E. Exceptions to this section will be:

1. Utility or refuse collection vehicles used by counties, cities, or towns or by private companies contracted by counties, cities, or towns if the following conditions are met:

a. calculation of weight for a utility or refuse collection vehicle shall be "Gross Vehicle Weight". The "Gross Vehicle Weight" of a utility or refuse collection vehicle may not exceed the otherwise applicable weight by more than fifteen percent (15%). The weight on individual axles must not exceed the manufacturer's component rating which includes axle, suspension, wheels, rims, brakes, and tires as shown on the vehicle certification label or tag, and

b. utility or refuse collection vehicles operated under these exceptions will not be allowed to operate on interstate highways;

2. Vehicles transporting timber, pulpwood, and chips in their natural state, vehicles transporting oil field fluids, oil field equipment, or equipment used in oil and gas well drilling or exploration, and vehicles transporting grain, if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate,

b. the vehicles do not exceed five percent (5%) of the gross limits set forth in subsection A of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the

National System of Interstate and Defense Highways; and

3. Vehicles transporting rock, sand, gravel, and coal if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate,

b. the vehicles do not exceed five percent (5%) of the axle limits set forth in subsection A of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways.

F. Utility or refuse collection vehicles, vehicles transporting timber, pulpwood, and chips in their natural state, vehicles transporting oil field equipment or equipment used in oil and gas well drilling or exploration, vehicles transporting rock, sand, gravel, and coal and vehicles transporting grain, operating under exceptions shall purchase an annual special overload permit for One Hundred Dollars ($100.00). This fee shall be apportioned as provided for in Section 1104 of this title.

G. For purposes of this section, "utility vehicle" shall mean any truck used by a private utility company, county, city, or town for the purpose of installing or maintaining electric, water, or sewer systems.

H. Any person convicted of violating the provisions of this subsection shall be punished by a per-pound fine as follows:

Pounds Overweight	Fine per Pound Overweight
Seven Hundred (700) to Two Thousand (2,000)	$0.03
Two Thousand One (2,001) to Five Thousand (5,000)	$0.05
Five Thousand One (5,001) to Seven Thousand Five Hundred (7,500)	$0.07
Seven Thousand Five Hundred One (7,501) to Ten Thousand (10,000)	$0.09
Ten Thousand One (10,001) to Twelve Thousand Five Hundred (12,500)	$0.11
Twelve Thousand Five Hundred One (12,501) to Fifteen Thousand (15,000)	$0.13
Fifteen Thousand One (15,001) or more	$0.15

SECTION 2. AMENDATORY 47 O.S. 2001, Section 14-116a, as amended by Section 11, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2006, Section 14-116a), is amended to read as follows:

Section 14-116a. A. Any person, firm, or corporation who moves or transports any load or manufactured home without a permit issued by the Department of Public Safety as required by the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as follows:

1. For the first such violation, by a fine of Five Hundred Dollars ($500.00);

2. For the second such violation, by a fine of One Thousand Dollars ($1,000.00); and

3. For the third and subsequent violations, by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00).

Provided, if the weight of load and vehicle is such that an overweight permit is required for the movement of the load and vehicle, then the fine imposed by this subsection shall be increased by the appropriate per-pound fine prescribed in subsection H of Section 14-109 of this title.

B. The permit shall be carried by the operator of the vehicle moving or transporting the load or manufactured home and shall be available for inspection by any law enforcement officer. If said operator is found not to possess a permit, the load or manufactured home shall not continue to be moved or transported. Thereafter, the load or manufactured home shall not be moved or transported further except by the operator of a vehicle moving or transporting the load or manufactured home who is in possession of a permit authorizing the movement of the load or manufactured home.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.9-1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. 1. Following a compliance review of an intrastate motor carrier operation, the Department of Public Safety, using the factors prescribed in subsection B of this section, as computed under the Safety Fitness Rating Methodology set forth in appendix B of 49 C.F.R., Part 385, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standard set forth in 49 C.F.R., Section 385.5, and assign a safety rating accordingly.

2. Unless otherwise specifically provided in this section, a safety rating shall be issued to a motor carrier within thirty (30) days following the completion of a compliance review.

B. 1. The Department shall provide a motor carrier written notice of any safety rating resulting from a compliance review as soon as practicable, but not later than thirty (30) days after the review. The notice shall be given as provided in Section 2-116 of Title 47 of the Oklahoma Statutes and shall include a list of Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations compliance deficiencies, which the motor carrier shall correct.

2. If the safety rating is "satisfactory" or improves a previous "unsatisfactory" safety rating, it shall be final and become effective on the date of the notice.

3. In all other cases, a notice of a proposed safety rating shall be issued and shall become the final safety rating after the following time period:

a. for motor carriers transporting hazardous materials in quantities requiring placarding or transporting passengers by commercial motor vehicle, forty-five (45) days after the date of the notice, or

b. for all other motor carriers operating commercial motor vehicles, sixty (60) days after the date of the notice.

4. A proposed safety rating of "unsatisfactory" is a notice to the motor carrier that the Department has made a preliminary determination that the motor carrier does not meet acceptable standards to continue operating in intrastate commerce and that the prohibitions in subsection C of this section shall be imposed after the applicable time period, as provided in paragraph 3 of this subsection, if necessary safety improvements are not made.

5. A motor carrier may request the Department to perform an administrative review of a proposed or final safety rating, as prescribed in subsection E of this section.

6. A motor carrier may request a change to a proposed or final safety rating based upon its corrective actions, as prescribed in subsection F of this section.

C. 1. A motor carrier rated "unsatisfactory" shall be prohibited from operating a commercial motor vehicle, as follows:

a. motor carries transporting hazardous materials in quantities requiring placarding, and motor carriers transporting passengers in a commercial motor vehicle, shall be prohibited from operating a commercial motor vehicle beginning on the effective date of the notice of proposed "unsatisfactory" rating, and

b. all other motor carriers shall be prohibited from operating a commercial motor vehicle beginning on the effective date of the notice of proposed "unsatisfactory" rating; provided, if the Department determines the motor carrier is making a good-faith effort to improve its safety fitness, the Department may allow the motor carrier to operate for up to sixty (60) additional days.

2. A state or local agency shall not use a motor carrier that holds an "unsatisfactory" rating to transport passengers in a commercial motor vehicle or to transport hazardous materials in quantities requiring placarding.

3. A state or local agency shall not use a motor carrier for other commercial motor vehicle transportation if that carrier holds an "unsatisfactory" rating.

4. If a proposed "unsatisfactory" safety rating becomes final, the Federal Motor Carrier Safety Administration will issue an order placing its interstate operations out of service. Any motor carrier that operates commercial motor vehicles in violation of this section will be subject to the penalty provisions listed in 49 U.S.C. Section 521(b).

D. 1. A commercial motor vehicle owner or operator that has failed to pay civil penalties imposed by the Department, or has failed to abide by a payment plan, may be prohibited from operating commercial motor vehicles in intrastate commerce.

2. A broker, freight forwarder, or for-hire motor carrier that has failed to pay civil penalties imposed by the Department, or has failed to abide by a payment plan, may be prohibited from operating in interstate commerce, and its registration may be suspended.

E. 1. A motor carrier may request the Department to conduct an administrative review if it believes the Department has committed an error in assigning its proposed safety rating or its final safety rating.

2. The request shall explain the error the motor carrier believes the Department committed in issuing the safety rating. The motor carrier shall include a list of all factual and procedural

issues in dispute, and any information or documents that support its argument.

3. The motor carrier shall submit its request in writing to the Size and Weight Enforcement Section of the Oklahoma Highway Patrol Division of the Department.

4. If a motor carrier has received a notice of a proposed "unsatisfactory" safety rating, it shall submit its request within fifteen (15) days from the date of the notice. The Department shall issue a written decision prior to the effective date of the notice.

5. A motor carrier shall make a request for an administrative review within ninety (90) days of the date of a proposed safety rating issued under paragraph 3 of subsection B of this section, the date of a final safety rating issued under paragraph 2 of subsection B of this section, or the date of a denial of a request for a change in rating under paragraph 9 of subsection F of this section.

6. The Department may ask the motor carrier to submit additional data and attend a conference to discuss the safety rating. If the motor carrier does not provide the information requested, or does not attend the conference, the Department may dismiss the request for review.

7. The Department shall notify the motor carrier in writing of its decision following the administrative review. The Department shall complete its review:

a. within thirty (30) days after receiving a request

from a hazardous materials or passenger motor carrier that has received a proposed or final "unsatisfactory" safety rating, or

b. within forty-five (45) days after receiving a request from any other motor carrier that has received a proposed or final "unsatisfactory" safety rating.

8. The decision resulting from the administrative review constitutes final agency action.

9. Any motor carrier may request a rating change under the provisions of subsection F of this section.

F. 1. A motor carrier that has taken action to correct the deficiencies that resulted in a proposed or final rating of "conditional" or "unsatisfactory" may request a rating change at any time.

2. A motor carrier shall make this request in writing to the Size and Weight Enforcement Section of the Oklahoma Highway Patrol Division of the Department.

3. The motor carrier shall base its request upon evidence that it has taken corrective actions, and that its operations currently meet the safety standard and factors specified in 49 U.S.C., Sections 385.5 and 385.7. The request shall include a written description of corrective actions taken and other documentation the carrier wishes the Department to consider.

4. The Department shall make a final determination on the request for change based upon the documentation the motor carrier submits and any additional relevant information.

5. The Department shall perform reviews of requests made by motor carriers with a proposed or final "unsatisfactory" safety rating in the following time periods after the request of the motor carrier:

a. within thirty (30) days for motor carriers transporting passengers in commercial motor vehicles or placardable quantities of hazardous materials, or

b. within forty-five (45) days for all other motor carriers.

6. The filing of a request for change to a proposed or final safety rating under this subsection does not stay the forty-five-day period specified in subparagraph a of paragraph 1 of subsection C of this section for motor carriers transporting passengers or hazardous materials. If the motor carrier has submitted evidence that corrective actions have been taken pursuant to this section and the Department cannot make a final determination within the forty-five-day period, the period before the proposed safety rating becomes final may be extended for up to ten (10) days at the discretion of the Department.

7. The Department may allow a motor carrier with a proposed rating of "unsatisfactory", except those transporting passengers in

commercial motor vehicles or placardable quantities of hazardous materials, to continue to operate in intrastate commerce for up to sixty (60) days beyond the sixty (60) days specified in the proposed rating, if the Department determines that the motor carrier is making a good faith effort to improve its safety status. This additional period would begin on the effective date of the notice of the proposed "unsatisfactory" rating.

8. If the Department determines that the motor carrier has taken the corrective actions required and that its operations currently meet the safety standard and factors specified in 49 U.S.C., Sections 385.5 and 385.7, the agency shall notify the motor carrier in writing of its upgraded safety rating.

9. If the Department determines that the motor carrier has not taken all the corrective actions required, or that its operations still fail to meet the safety standard and factors specified in 49 U.S.C., Sections 385.5 and 385.7, the agency shall notify the motor carrier in writing.

10. Any motor carrier whose request for change is denied in accordance with paragraph 9 of this subsection may request administrative review under the procedures of subsection E of this section. The motor carrier shall make the request within ninety (90) days of the denial of the request for a rating change. If the proposed rating has become final, it shall remain in effect during the period of any administrative review.

G. 1. Final ratings will be made available to other federal, state, and local agencies in writing, telephonically, or by remote computer access.

2. The final safety rating assigned to a motor carrier shall be made available to the public upon request. Any person requesting the assigned rating of a motor carrier shall provide the Department with the name of the motor carrier, principal office address, and, if known, the United States Department of Transportation number, if any.

3. Requests for ratings shall be addressed to the Size and Weight Enforcement Section of the Oklahoma Highway Patrol Division of the Department.

H. 1. Notwithstanding the provisions of Sections 230.6 and 230.9 of Title 47 of the Oklahoma Statutes, the Department shall assess, when the rating and circumstances warrant, an administrative penalty as provided in 49 C.F.R., Part 386, Appendix B, using the Uniform Fine Assessment developed and maintained by the Upper Great Plains Transportation Institute for the Federal Motor Carrier Safety Administration.

2. In determining the amount of any administrative penalty and the reasonable amount of time for abatement of the violation, the Commissioner shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation, and with respect to the person found to have committed the violation, the

degree of culpability, history of prior offenses, effect on ability to continue to do business and such other matters as justice and public safety may require. In each case, the penalty shall be calculated to induce further compliance.

I. As used in this section, "compliance review" means an on-site examination of motor carrier operations, such as hours of service of drivers, maintenance and inspection, driver qualification, commercial driver license requirements, financial responsibility, collisions, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets safety standards.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 1129, as amended by Section 19, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2006, Section 1129), is amended to read as follows:

Section 1129. A. Special mobilized machinery shall not be subject to any section or provision of the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of this title, except the provisions of this section.

Special mobilized machinery shall be permitted the use of the highways of this state when proper registration and permits, as provided in this section, are in the possession of the operator. <u>If such equipment is not certified and registered as special mobilized machinery, and no permits are in possession of the operator, the</u>

equipment shall comply with Sections 14-101 through 14-121 of this title.

B. Owners of qualifying equipment hereunder may elect to register such equipment either under this section or under other applicable provisions of this act. Application covering qualifying equipment may be made to the Oklahoma Tax Commission or their authorized agents for registering special mobilized machinery. Upon payment of a registration fee of Twenty-five Dollars ($25.00), the applicant shall be granted a certificate of registration in acknowledgment of qualification by the Commission. The certificate of registration must at all times be carried with the equipment and be available for inspection by an investigating officer.

C. In addition to the registration fee, the Commission shall collect at time of registration an additional fee of Five Hundred Fifty Dollars ($550.00) per unit for equipment qualifying under the terms of this section. This fee of Five Hundred Fifty Dollars ($550.00) shall include the constitutional ad valorem tax and shall be allocated by the Commission in the same manner and percentage as registration and permit fees are presently allocated under the provisions of this act. Payment of this fee shall be due on January 1 of each calendar year and must be paid in no event later than February 1 of each calendar year. The penalty for noncompliance with this provision shall be a double fee in the amount of One Thousand One Hundred Dollars ($1,100.00). For qualifying equipment

purchased during the calendar year, the Commission shall collect a fee which shall be pro rata of the annual fee as hereinbefore defined. Provided, however, the fee for qualifying equipment registered in another state and utilized for emergency or temporary service, not to exceed thirty (30) days, shall be calculated in the same manner as set forth in subsection A of Section 1122 of this title.

D. Other provisions of this section relating to registration and other laws of this state relating to registration, fees, or licensing shall not apply to such special mobilized equipment when the same is manufactured in Oklahoma and sold for delivery and exclusive use without the state or when returned temporarily for modification or repair. In addition, the registration, fees, and licensing provisions of the laws of this state shall not apply to special mobilized equipment temporarily brought into the state, with subsequent movement back out of the state, solely for fabrication, repair, testing, alteration, modification, refurbishing, or maintenance. This subsection shall in no way exempt the equipment described herein from the levy of ad valorem taxes.

SECTION 5. This act shall become effective November 1, 2007.

51-1-7429 GRS 02/28/07