

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 1956

By: Mazzei and Wilson of the
Senate

6 and

7 Terrill and Jones of the
8 House

9
10 SUBCOMMITTEE RECOMMENDATION

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2001, Section 118, as last amended by Section 3,
13 Chapter 335, O.S.L. 2007 (68 O.S. Supp. 2007, Section
14 118), which relates to revenue estimation; making
15 certain date certain; amending 68 O.S. 2001, Section
16 205, as last amended by Section 2, Chapter 327,
17 O.S.L. 2007 (68 O.S. Supp. 2007, Section 205), which
18 relates to tax records; allowing the providing of
19 information to certain groups; amending Section 20,
20 Chapter 413, O.S.L. 2003, as last amended by Section
21 6, Chapter 155, O.S.L. 2007 (68 O.S. Supp. 2007,
22 Section 1354.27), which relates to sourcing;
23 modifying time period during which sourcing rule
24 applies; amending 47 O.S. 2001, Section 1140, as last
amended by Section 77, Chapter 1, O.S.L. 2005 (47
O.S. Supp. 2007, Section 1140), which relates to
motor license agencies; providing exemption from
certain prohibition on locations of motor license
agencies; and providing an effective date.

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 118, as last
2 amended by Section 3, Chapter 335, O.S.L. 2007 (68 O.S. Supp. 2007,
3 Section 118), is amended to read as follows:

4 Section 118. A. Upon receipt of a written request from a
5 member or employee of the Legislature, the Oklahoma Tax Commission
6 shall provide:

7 1. A written estimate of the revenue gain or loss to the state
8 as a result of an actual or proposed change to a state tax law; and

9 2. A written statement of the Tax Commission's recommendation
10 to the State Board of Equalization as to the change in the amount
11 certified as available for appropriation by the Legislature as a
12 result of an actual or proposed change to a state tax law.

13 The Tax Commission shall provide such estimate and statement
14 within two (2) weeks of the date the request was received unless the
15 member or employee of the Legislature specifies an earlier date. If
16 the Tax Commission determines that it is unable to provide such
17 estimate and statement within the time period required by this
18 section, it shall provide a written explanation and date by which
19 the estimate and statement will be provided to the member or
20 employee.

21 B. ~~As soon as is practicable~~ On or after December 31, 2008
22 2009, and subject to the availability of funds, the Tax Commission
23 shall develop the estimates and statements required by subsection A
24 of this section utilizing a dynamic revenue estimating model. Such

1 model shall take into consideration changes in economic activity as
2 a result of the proposed legislation and consequent revenue gains or
3 losses due to factors such as taxpayer behavior, employment and
4 business investment. The Tax Commission may, subject to the laws of
5 this state relating to confidentiality of information, contract with
6 institutions of higher education in this state or other entities to
7 perform its duties as set forth in this subsection. The Tax
8 Commission is authorized to promulgate rules to carry out the
9 implementation of this section.

10 C. For the purpose of providing an annual forecast of gross
11 production tax revenues from the production of natural and
12 casinghead gas to the Office of State Finance, the Tax Commission
13 shall subscribe to appropriate reference materials which provide
14 economic outlook of future gas prices that have most closely
15 followed the historical trend of Oklahoma gas prices. To determine
16 the average differential between the published forecasted prices and
17 Oklahoma gas prices, the Tax Commission shall compare prices in at
18 least twenty-four (24) of the immediate thirty-six (36) previous
19 months of production. The Tax Commission shall utilize the
20 procedures provided herein to forecast the collection of gross
21 production tax revenues from the production of natural and
22 casinghead gas for the fiscal year beginning July 1, 2005, and each
23 fiscal year thereafter.

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1 SECTION 2. AMENDATORY 68 O.S. 2001, Section 205, as last
2 amended by Section 2, Chapter 327, O.S.L. 2007 (68 O.S. Supp. 2007,
3 Section 205), is amended to read as follows:

4 Section 205. A. The records and files of the Oklahoma Tax
5 Commission concerning the administration of the Uniform Tax
6 Procedure Code or of any state tax law shall be considered
7 confidential and privileged, except as otherwise provided for by
8 law, and neither the Tax Commission nor any employee engaged in the
9 administration of the Tax Commission or charged with the custody of
10 any such records or files nor any person who may have secured
11 information from the Tax Commission shall disclose any information
12 obtained from the records or files or from any examination or
13 inspection of the premises or property of any person.

14 B. Except as provided in paragraph 26 of subsection C of this
15 section, neither the Tax Commission nor any employee engaged in the
16 administration of the Tax Commission or charged with the custody of
17 any such records or files shall be required by any court of this
18 state to produce any of the records or files for the inspection of
19 any person or for use in any action or proceeding, except when the
20 records or files or the facts shown thereby are directly involved in
21 an action or proceeding pursuant to the provisions of the Uniform
22 Tax Procedure Code or of the state tax law, or when the
23 determination of the action or proceeding will affect the validity
24 or the amount of the claim of the state pursuant to any state tax

1 law, or when the information contained in the records or files
2 constitutes evidence of violation of the provisions of the Uniform
3 Tax Procedure Code or of any state tax law.

4 C. The provisions of this section shall not prevent the Tax
5 Commission from disclosing the following information and no
6 liability whatsoever, civil or criminal, shall attach to any member
7 of the Tax Commission or any employee thereof for any error or
8 omission in the disclosure of such information:

9 1. The delivery to a taxpayer or a duly authorized
10 representative of the taxpayer of a copy of any report or any other
11 paper filed by the taxpayer pursuant to the provisions of the
12 Uniform Tax Procedure Code or of any state tax law;

13 2. The exchange of information that is not protected by the
14 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
15 pursuant to reciprocal agreements entered into by the Tax Commission
16 and other state agencies or agencies of the federal government;

17 3. The publication of statistics so classified as to prevent
18 the identification of a particular report and the items thereof;

19 4. The examination of records and files by the State Auditor
20 and Inspector or the duly authorized agents of the State Auditor and
21 Inspector;

22 5. The disclosing of information or evidence to the Oklahoma
23 State Bureau of Investigation, Attorney General, Oklahoma State
24 Bureau of Narcotics and Dangerous Drugs Control, any district

1 attorney, or agent of any federal law enforcement agency when the
2 information or evidence is to be used by such officials to
3 investigate or prosecute violations of the criminal provisions of
4 the Uniform Tax Procedure Code or of any state tax law or of any
5 federal crime committed against this state. Any information
6 disclosed to the Oklahoma State Bureau of Investigation, Attorney
7 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
8 Control, any district attorney, or agent of any federal law
9 enforcement agency shall be kept confidential by such person and not
10 be disclosed except when presented to a court in a prosecution for
11 violation of the tax laws of this state or except as specifically
12 authorized by law, and a violation by the Oklahoma State Bureau of
13 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
14 and Dangerous Drugs Control, district attorney, or agent of any
15 federal law enforcement agency by otherwise releasing the
16 information shall be a felony;

17 6. The use by any division of the Tax Commission of any
18 information or evidence in the possession of or contained in any
19 report or return filed with any other division of the Tax
20 Commission;

21 7. The furnishing, at the discretion of the Tax Commission, of
22 any information disclosed by its records or files to any official
23 person or body of this state, any other state, the United States, or
24 foreign country who is concerned with the administration or

1 assessment of any similar tax in this state, any other state or the
2 United States. The provisions of this paragraph shall include the
3 furnishing of information by the Tax Commission to a county assessor
4 to determine the amount of gross household income pursuant to the
5 provisions of Section 8C of Article X of the Oklahoma Constitution
6 or Section 2890 of this title. The Tax Commission shall promulgate
7 rules to give guidance to the county assessors regarding the type of
8 information which may be used by the county assessors in determining
9 the amount of gross household income pursuant to Section 8C of
10 Article X of the Oklahoma Constitution or Section 2890 of this
11 title. The provisions of this paragraph shall also include the
12 furnishing of information to the State Treasurer for the purpose of
13 administration of the Uniform Unclaimed Property Act;

14 8. The furnishing of information to other state agencies for
15 the limited purpose of aiding in the collection of debts owed by
16 individuals to such requesting agencies;

17 9. The furnishing of information requested by any member of the
18 general public and stated in the sworn lists or schedules of taxable
19 property of public service corporations organized, existing, or
20 doing business in this state which are submitted to and certified by
21 the State Board of Equalization pursuant to the provisions of
22 Section 2858 of this title and Section 21 of Article X of the
23 Oklahoma Constitution, provided such information would be a public
24

1 record if filed pursuant to Sections 2838 and 2839 of this title on
2 behalf of a corporation other than a public service corporation;

3 10. The furnishing of information requested by any member of
4 the general public and stated in the findings of the Tax Commission
5 as to the adjustment and equalization of the valuation of real and
6 personal property of the counties of the state, which are submitted
7 to and certified by the State Board of Equalization pursuant to the
8 provisions of Section 2865 of this title and Section 21 of Article X
9 of the Oklahoma Constitution;

10 11. The furnishing of information to an Oklahoma wholesaler of
11 low-point beer, licensed under the provisions of Section 163.1 et
12 seq. of Title 37 of the Oklahoma Statutes, or an association or
13 organization whose membership is comprised of such wholesalers, of
14 the licensed retailers authorized by law to purchase low-point beer
15 in this state or the furnishing of information to a licensed
16 Oklahoma wholesaler of low-point beer of shipments by licensed
17 manufacturers into this state;

18 12. The furnishing of information as to the issuance or
19 revocation of any tax permit, license or exemption by the Tax
20 Commission as provided for by law. Such information shall be
21 limited to the name of the person issued the permit, license or
22 exemption, the name of the business entity authorized to engage in
23 business pursuant to the permit, license or exemption, the address
24 of the business entity, and the grounds for revocation;

1 13. The posting of notice of revocation of any tax permit or
2 license upon the premises of the place of business of any business
3 entity which has had any tax permit or license revoked by the Tax
4 Commission as provided for by law. Such notice shall be limited to
5 the name of the person issued the permit or license, the name of the
6 business entity authorized to engage in business pursuant to the
7 permit or license, the address of the business entity, and the
8 grounds for revocation;

9 14. The furnishing of information upon written request by any
10 member of the general public as to the outstanding and unpaid amount
11 due and owing by any taxpayer of this state for any delinquent tax,
12 together with penalty and interest, for which a tax warrant or a
13 certificate of indebtedness has been filed pursuant to law;

14 15. After the filing of a tax warrant pursuant to law, the
15 furnishing of information upon written request by any member of the
16 general public as to any agreement entered into by the Tax
17 Commission concerning a compromise of tax liability for an amount
18 less than the amount of tax liability stated on such warrant;

19 16. The disclosure of information necessary to complete the
20 performance of any contract authorized by ~~Sections 255 and 262 of~~
21 this title to any person with whom the Tax Commission has
22 contracted;

23 17. The disclosure of information to any person for a purpose
24 as authorized by the taxpayer pursuant to a waiver of

1 confidentiality. The waiver shall be in writing and shall be made
2 upon such form as the Tax Commission may prescribe;

3 18. The disclosure of information required in order to comply
4 with the provisions of Section 2369 of this title;

5 19. The disclosure to an employer, as defined in Sections
6 2385.1 and 2385.3 of this title, of information required in order to
7 collect the tax imposed by Section 2385.2 of this title;

8 20. The disclosure to a plaintiff of a corporation's last-known
9 address shown on the records of the Franchise Tax Division of the
10 Tax Commission in order for such plaintiff to comply with the
11 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

12 21. The disclosure of information directly involved in the
13 resolution of the protest by a taxpayer to an assessment of tax or
14 additional tax or the resolution of a claim for refund filed by a
15 taxpayer, including the disclosure of the pendency of an
16 administrative proceeding involving such protest or claim, to a
17 person called by the Tax Commission as an expert witness or as a
18 witness whose area of knowledge or expertise specifically addresses
19 the issue addressed in the protest or claim for refund. Such
20 disclosure to a witness shall be limited to information pertaining
21 to the specific knowledge of that witness as to the transaction or
22 relationship between taxpayer and witness;

23 22. The disclosure of information necessary to implement an
24 agreement authorized by Section 2702 of this title when such

1 information is directly involved in the resolution of issues arising
2 out of the enforcement of a municipal sales tax ordinance. Such
3 disclosure shall be to the governing body or to the municipal
4 attorney, if so designated by the governing body;

5 23. The furnishing of information regarding incentive payments
6 made pursuant to the provisions of Sections 3601 through 3609 of
7 this title or incentive payments made pursuant to the provisions of
8 Sections 3501 through 3508 of this title;

9 24. The furnishing to a prospective purchaser of any business,
10 or his or her authorized representative, of information relating to
11 any liabilities, delinquencies, assessments or warrants of the
12 prospective seller of the business which have not been filed of
13 record, established, or become final and which relate solely to the
14 seller's business. Any disclosure under this paragraph shall only
15 be allowed upon the presentment by the prospective buyer, or the
16 buyer's authorized representative, of the purchase contract and a
17 written authorization between the parties;

18 25. The furnishing of information as to the amount of state
19 revenue affected by the issuance or granting of any tax permit,
20 license, exemption, deduction, credit or other tax preference by the
21 Tax Commission as provided for by law. Such information shall be
22 limited to the type of permit, license, exemption, deduction, credit
23 or other tax preference issued or granted, the date and duration of
24 such permit, license, exemption, deduction, credit or other tax

1 preference and the amount of such revenue. The provisions of this
2 paragraph shall not authorize the disclosure of the name of the
3 person issued such permit, license, exemption, deduction, credit or
4 other tax preference, or the name of the business entity authorized
5 to engage in business pursuant to the permit, license, exemption,
6 deduction, credit or other tax preference;

7 26. The examination of records and files of a person or entity
8 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
9 Control pursuant to a court order by a magistrate in whose
10 territorial jurisdiction the person or entity resides, or where the
11 Tax Commission records and files are physically located. Such an
12 order may only be issued upon a sworn application by an agent of the
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
14 certifying that the person or entity whose records and files are to
15 be examined is the target of an ongoing investigation of a felony
16 violation of the Uniform Controlled Dangerous Substances Act and
17 that information resulting from such an examination would likely be
18 relevant to that investigation. Any records or information obtained
19 pursuant to such an order may only be used by the Oklahoma State
20 Bureau of Narcotics and Dangerous Drugs Control in the investigation
21 and prosecution of a felony violation of the Uniform Controlled
22 Dangerous Substances Act. Any such order issued pursuant to this
23 paragraph, along with the underlying application, shall be sealed
24 and not disclosed to the person or entity whose records were

1 examined, for a period of ninety (90) days. The issuing magistrate
2 may grant extensions of such period upon a showing of good cause in
3 furtherance of the investigation. Upon the expiration of ninety
4 (90) days and any extensions granted by the magistrate, a copy of
5 the application and order shall be served upon the person or entity
6 whose records were examined, along with a copy of the records or
7 information actually provided by the Tax Commission;

8 27. The disclosure of information, as prescribed by this
9 paragraph, which is related to the proposed or actual usage of tax
10 credits pursuant to Section 2357.7 of this title, the Small Business
11 Capital Formation Incentive Act or the Rural Venture Capital
12 Formation Incentive Act. Unless the context clearly requires
13 otherwise, the terms used in this paragraph shall have the same
14 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
15 title. The disclosure of information authorized by this paragraph
16 shall include:

- 17 a. the legal name of any qualified venture capital
18 company, qualified small business capital company, or
19 qualified rural small business capital company,
- 20 b. the identity or legal name of any person or entity
21 that is a shareholder or partner of a qualified
22 venture capital company, qualified small business
23 capital company, or qualified rural small business
24 capital company,

- 1 c. the identity or legal name of any Oklahoma business
2 venture, Oklahoma small business venture, or Oklahoma
3 rural small business venture in which a qualified
4 investment has been made by a capital company, or
5 d. the amount of funds invested in a qualified venture
6 capital company, the amount of qualified investments
7 in a qualified small business capital company or
8 qualified rural small business capital company and the
9 amount of investments made by a qualified venture
10 capital company, qualified small business capital
11 company, or qualified rural small business capital
12 company; or

13 28. The disclosure of specific information as required by
14 Section ~~46~~ 46 of ~~this act~~ Title 62 of the Oklahoma Statutes.

15 D. The Tax Commission shall cause to be prepared and made
16 available for public inspection in the office of the Tax Commission
17 in such manner as it may determine an annual list containing the
18 name and post office address of each person, whether individual,
19 corporate, or otherwise, making and filing an income tax return with
20 the Tax Commission.

21 It is specifically provided that no liability whatsoever, civil
22 or criminal, shall attach to any member of the Tax Commission or any
23 employee thereof for any error or omission of any name or address in
24 the preparation and publication of the list.

1 E. The Tax Commission shall prepare or cause to be prepared a
2 report on all provisions of state tax law that reduce state revenue
3 through exclusions, deductions, credits, exemptions, deferrals or
4 other preferential tax treatments. The report shall be prepared not
5 later than October 1 of each even-numbered year and shall be
6 submitted to the Governor, the President Pro Tempore of the Senate
7 and the Speaker of the House of Representatives. The Tax Commission
8 may prepare and submit supplements to the report at other times of
9 the year if additional or updated information relevant to the report
10 becomes available. The report shall include, for the previous
11 fiscal year, the Tax Commission's best estimate of the amount of
12 state revenue that would have been collected but for the existence
13 of each such exclusion, deduction, credit, exemption, deferral or
14 other preferential tax treatment allowed by law. The Tax Commission
15 may request the assistance of other state agencies as may be needed
16 to prepare the report. The Tax Commission is authorized to require
17 any recipient of a tax incentive or tax expenditure to report to the
18 Tax Commission such information as requested so that the Tax
19 Commission may provide the information to the Incentive Review
20 Committee or fulfill its obligations as required by this subsection.
21 The Tax Commission may require this information to be submitted in
22 an electronic format. The Tax Commission may disallow any claim of
23 a person for a tax incentive due to its failure to file a report as
24 required under the authority of this subsection. The Tax Commission

1 may consult with the Incentive Review Committee to develop a
2 reporting system to obtain the information requested in a manner
3 that is the least burdensome on the taxpayer.

4 F. It is further provided that the provisions of this section
5 shall be strictly interpreted and shall not be construed as
6 permitting the disclosure of any other information contained in the
7 records and files of the Tax Commission relating to income tax or to
8 any other taxes.

9 G. Unless otherwise provided for in this section, any violation
10 of the provisions of this section shall constitute a misdemeanor and
11 shall be punishable by the imposition of a fine not exceeding One
12 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
13 for a term not exceeding one (1) year, or by both such fine and
14 imprisonment, and the offender shall be removed or dismissed from
15 office.

16 H. Offenses described in Section 2376 of this title shall be
17 reported to the appropriate district attorney of this state by the
18 Tax Commission as soon as the offenses are discovered by the Tax
19 Commission or its agents or employees. The Tax Commission shall
20 make available to the appropriate district attorney or to the
21 authorized agent of the district attorney its records and files
22 pertinent to prosecutions, and such records and files shall be fully
23 admissible as evidence for the purpose of such prosecutions.

24

1 SECTION 3. AMENDATORY Section 20, Chapter 413, O.S.L.
2 2003, as last amended by Section 6, Chapter 155, O.S.L. 2007 (68
3 O.S. Supp. 2007, Section 1354.27), is amended to read as follows:

4 Section 1354.27 A. The retail sale, excluding lease or rental,
5 of a product shall be sourced as follows:

6 1. When the product is received by the purchaser at a business
7 location of the seller, the sale is sourced to that business
8 location;

9 2. When the product is not received by the purchaser at a
10 business location of the seller, the sale is sourced to the location
11 where receipt by the purchaser, or the purchaser's donee, designated
12 as such by the purchaser, occurs, including the location indicated
13 by instructions for delivery to the purchaser or donee, known to the
14 seller. Provided, this subsection shall not apply to florists until
15 January 1, ~~2009~~ 2010. Prior to that date, all sales by florists
16 shall be sourced to its business location;

17 3. When the provisions of paragraphs 1 and 2 of this subsection
18 do not apply, the sale is sourced to the location indicated by an
19 address for the purchaser that is available from the business
20 records of the seller that are maintained in the ordinary course of
21 the seller's business when use of this address does not constitute
22 bad faith;

23 4. When the provisions of paragraphs 1, 2 and 3 of this
24 subsection do not apply, the sale is sourced to the location

1 indicated by an address for the purchaser obtained during the
2 consummation of the sale, including the address of a purchaser's
3 payment instrument, if no other address is available, when use of
4 this address does not constitute bad faith; and

5 5. When none of the previous rules of paragraphs 1, 2, 3 and 4
6 of this subsection apply, including the circumstance in which the
7 seller is without sufficient information to apply the previous
8 rules, then the location will be determined by the address from
9 which tangible personal property was shipped, from which the digital
10 good or the computer software delivered electronically was first
11 available for transmission by the seller, or from which the service
12 was provided, disregarding for these purposes any location that
13 merely provided the digital transfer of the product sold. In the
14 case of a sale of mobile telecommunications service that is a
15 prepaid telecommunications service, the location will be that which
16 is associated with the mobile telephone number.

17 B. The lease or rental of tangible personal property, other
18 than property identified in subsection C or D of this section, shall
19 be sourced as follows:

20 1. For a lease or rental that requires recurring periodic
21 payments, the first periodic payment is sourced the same as a retail
22 sale in accordance with the provisions of subsection A of this
23 section. Periodic payments made subsequent to the first payment are
24 sourced to the primary property location for each period covered by

1 the payment. The primary property location shall be as indicated by
2 an address for the property provided by the lessee that is available
3 to the lessor from its records maintained in the ordinary course of
4 business, when use of this address does not constitute bad faith.

5 The property location shall not be altered by intermittent use at
6 different locations, such as use of business property that
7 accompanies employees on business trips and service calls; and

8 2. For a lease or rental that does not require recurring
9 periodic payments, the payment is sourced the same as a retail sale
10 in accordance with the provisions of subsection A of this section.

11 This subsection does not affect the imposition or computation of
12 sales or use tax on leases or rentals based on a lump sum or
13 accelerated basis, or on the acquisition of property for lease.

14 C. The lease or rental of motor vehicles, trailers,
15 semitrailers, or aircraft that do not qualify as transportation
16 equipment, as defined in subsection D of this section, shall be
17 sourced as follows:

18 1. For a lease or rental that requires recurring periodic
19 payments, each periodic payment is sourced to the primary property
20 location. The primary property location shall be as indicated by an
21 address for the property provided by the lessee that is available to
22 the lessor from its records maintained in the ordinary course of
23 business, when use of this address does not constitute bad faith.

24

1 This location shall not be altered by intermittent use at different
2 locations; and

3 2. For a lease or rental that does not require recurring
4 periodic payments, the payment is sourced the same as a retail sale
5 in accordance with the provisions of subsection A of this section.

6 This subsection does not affect the imposition or computation of
7 sales or use tax on leases or rentals based on a lump sum or
8 accelerated basis, or on the acquisition of property for lease.

9 D. The retail sale, including lease or rental, of
10 transportation equipment shall be sourced the same as a retail sale
11 in accordance with the provisions of subsection A of this section,
12 notwithstanding the exclusion of lease or rental in subsection A of
13 this section. "Transportation equipment" means any of the following:

14 1. Locomotives and railcars that are utilized for the carriage
15 of persons or property in interstate commerce;

16 2. Trucks and truck-tractors with a Gross Vehicle Weight Rating
17 (GVWR) of ten thousand one (10,001) pounds or greater, trailers,
18 semitrailers, or passenger buses that are:

19 a. registered through the International Registration
20 Plan, and

21 b. operated under authority of a carrier authorized and
22 certificated by the United States Department of
23 Transportation or another federal authority to engage
24

1 in the carriage of persons or property in interstate
2 commerce;

3 3. Aircraft that are operated by air carriers authorized and
4 certificated by the United States Department of Transportation or
5 another federal or a foreign authority to engage in the carriage of
6 persons or property in interstate or foreign commerce; and

7 4. Containers designed for use on and component parts attached
8 or secured on the items set forth in paragraphs 1, 2 and 3 of this
9 subsection.

10 E. For the purposes of this section, the terms "receive" and
11 "receipt" mean:

- 12 1. Taking possession of tangible personal property;
- 13 2. Making first use of services; or
- 14 3. Taking possession or making first use of digital goods,
15 whichever comes first.

16 The terms "receive" and "receipt" do not include possession by a
17 shipping company on behalf of the purchaser.

18 SECTION 4. AMENDATORY 47 O.S. 2001, Section 1140, as
19 last amended by Section 77, Chapter 1, O.S.L. 2005 (47 O.S. Supp.
20 2007, Section 1140), is amended to read as follows:

21 Section 1140. A. In municipalities having a population in
22 excess of eight thousand five hundred (8,500) located in a county
23 having a population in excess of one hundred thirty thousand
24 (130,000), according to the latest Federal Decennial Census, the

1 Oklahoma Tax Commission shall adopt rules prescribing minimum
2 qualifications and requirements for locating motor license agencies
3 and for persons applying for appointment as a motor license agent.
4 Such qualifications and requirements shall include, but not be
5 limited to, the following:

- 6 1. Necessary job skills and experience;
- 7 2. Minimum office hours;
- 8 3. Provision for sufficient staffing, equipment, office space
9 and parking to provide maximum efficiency and maximum convenience to
10 the public;
- 11 4. Obtainment of a faithful performance surety bond as provided
12 for by law;
- 13 5. A requirement that operation of a motor license agency be
14 the primary source of income for said agent;
- 15 6. That the applicant has not been convicted of a felony and
16 that no felony charges are pending against the applicant;
- 17 7. That a complete financial statement be submitted by the
18 applicant on forms provided by the Tax Commission;
- 19 8. That a report of the applicant's credit history be obtained
20 through the appropriate credit bureau; and
- 21 9. That the location specified in the application for
22 appointment as a motor license agent not be owned by a member of the
23 Oklahoma Legislature or any person related to a member of the
24 Oklahoma Legislature within the third degree by consanguinity or

1 affinity and that the location not be within a three-mile radius of
2 an existing motor license agency unless the applicant is assuming
3 the location of an operating agency. The Tax Commission may, at its
4 discretion, approve the relocation of an existing agency within a
5 three-mile radius of another existing agency only if a naturally
6 intervening geographic barrier within that radius causes the
7 locations to be separated by not less than three (3) miles of
8 roadway by the most direct route.

9 After the necessary information has been forwarded to the Tax
10 Commission, each applicant shall be interviewed by the Tax
11 Commission or its designees and each item of information shall be
12 reviewed.

13 The qualifications and requirements specified in this subsection
14 shall apply only to persons making application to be appointed as
15 motor license agents on or after June 25, 1987.

16 Any person making application to the Tax Commission for the
17 purpose of becoming a motor license agent shall pay when submitting
18 the application, a nonrefundable application fee of One Hundred
19 Dollars (\$100.00). All such application fees shall be deposited in
20 the Oklahoma Tax Commission Revolving Fund.

21 Upon application by a person to serve as a motor license agent,
22 in such counties, the Tax Commission shall make a determination
23 whether such person and such location meets the qualifications and
24

1 requirements prescribed herein and, if such be the case, shall
2 appoint such person to serve as a motor license agent.

3 A motor license agent, appointed pursuant to this subsection
4 shall be permitted to operate a motor license agency at a single
5 location and shall be prohibited from operating subagencies or
6 branch agencies, unless such subagencies or branch agencies were
7 established prior to June 1, 1985.

8 Unless otherwise specifically provided, motor license agents
9 appointed pursuant to this subsection shall be subject to all laws
10 relating to motor license agents and shall be subject to removal at
11 the will of the Tax Commission.

12 B. In all other counties of this state and in municipalities
13 having a population of less than eight thousand five hundred (8,500)
14 located in a county having a population in excess of one hundred
15 thirty thousand (130,000), according to the latest Federal Decennial
16 Census, the Tax Commission shall appoint as many motor license
17 agents as it deems necessary to carry out the provisions of the
18 Motor Vehicle License and Registration Act. Provided, that in
19 counties with a population in excess of twenty-five thousand
20 (25,000) persons, according to the latest Federal Decennial Census,
21 having only one motor license agent serving the county, the Tax
22 Commission shall establish at least one additional agency to serve
23 the county.

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1 Such agents shall be self-employed independent contractors, and
2 all agents shall be under the supervision of the Tax Commission;
3 provided, any agent authorized to issue registrations pursuant to
4 the International Registration Plan shall also be under the
5 supervision of the Corporation Commission, subject to rules
6 promulgated by the Corporation Commission pursuant to the provisions
7 of subsection E of Section 2 1166 of this ~~act~~ title. Any such
8 agent, upon being appointed, shall furnish and file with the Tax
9 Commission a bond in such amount as may be fixed by the Tax
10 Commission. Such agent shall be removable at the will of the Tax
11 Commission. Such agent shall perform all duties and do such things
12 in the administration of the laws of this state as shall be enjoined
13 upon and required by the Tax Commission or the Corporation
14 Commission. Provided, the Tax Commission may operate a motor
15 license agency in any county where a vacancy occurs.

16 C. In the event of a vacancy existing by reason of resignation,
17 removal, death or otherwise, in the position of any motor license
18 agent, the Tax Commission is hereby empowered and authorized to take
19 any and all actions it deems appropriate in order to provide for the
20 orderly transition and for the maintenance of operations of the
21 motor license agency including but not limited to the designation of
22 one of its regular employees to serve as "acting agent" without
23 bond, and to receive and expend all fees or charges authorized or
24 provided by law and exercise the same powers and authority as a

1 regularly appointed motor license agent. An acting agent may be
2 authorized by the Tax Commission equally as the preceding agent to
3 make disbursements from any balances in the preceding motor license
4 agent's operating account and the agent's operating funds for the
5 payment of expenses of operations and salaries and other overhead.
6 If such funds are insufficient, the Tax Commission is authorized to
7 expend from funds appropriated for the operation of the Tax
8 Commission such amounts as are necessary to maintain and continue
9 the operation of any such motor license agency until a successor
10 agent is appointed and qualified. The Tax Commission may require a
11 blanket fiduciary bond of the agency employees.

12 D. Any motor license agency operated by a motor license agent
13 who has been charged with a felony shall be closed immediately. The
14 State Auditor and Inspector shall immediately conduct an audit of
15 such motor license agency and forward the report of the audit to the
16 Tax Commission for review. The Tax Commission shall determine
17 whether the motor license agency shall be reopened and operated by
18 the motor license agent or whether the agency shall be reopened and
19 operated by the Tax Commission. The review of the audit and the Tax
20 Commission determination shall be effected as soon as possible to
21 prevent additional inconvenience to the public.

22 E. When an application for registration is made with the Tax
23 Commission, Corporation Commission or a motor license agent, a
24 registration fee of One Dollar and seventy-five cents (\$1.75) shall

1 be collected for each license plate or decal issued. Such fees
2 shall be in addition to the registration fees on motor vehicles and
3 when an application for registration is made to the motor license
4 agent such motor license agent shall retain a fee as provided in
5 Section 1141.1 of this title. When the fee is paid by a person
6 making application directly with the Tax Commission or Corporation
7 Commission, as applicable, the registration fees shall be in the
8 same amount as provided for motor license agents and the fee
9 provided by Section 1141.1 of this title shall be deposited in the
10 Oklahoma Tax Commission Revolving Fund or as provided in Section 3
11 of this act, as applicable. The Tax Commission shall prepare
12 schedules of registration fees and charges for titles which shall
13 include the fees for such agents and all fees and charges paid by a
14 person shall be listed separately on the application and
15 registration and totaled on the application and registration. The
16 motor license agents shall charge only such fees as are specifically
17 provided for by law, and all such authorized fees shall be posted in
18 such a manner that any person shall have notice of all fees that are
19 imposed by law.

20 F. No person shall be appointed as a motor license agent unless
21 the person has attested under oath that the person is not related by
22 affinity or consanguinity within the third degree to:

23 1. Any member of the Oklahoma Legislature;

24

1 2. Any person who has served as a member of the Oklahoma
2 Legislature within the two-year period preceding the date of
3 appointment as motor license agent; or

4 3. Any employee of the Tax Commission.

5 G. Any motor license agent appointed under the provisions of
6 this title shall be responsible for all costs incurred by the Tax
7 Commission when relocating an existing motor license agency. The
8 Tax Commission may waive payment of such costs in case of unforeseen
9 business or emergency conditions beyond the control of the agent.

10 SECTION 5. This act shall become effective November 1, 2008.

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