

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 748

6 By: Mazzei and Wilson of the
7 Senate

8 and

9 Terrill of the House

10 COMMITTEE SUBSTITUTE

11 An Act relating to motor vehicles; amending 47 O.S.
12 2001, Section 1142, as amended by Section 6, Chapter
13 295, O.S.L. 2006 (47 O.S. Supp. 2006, Section 1142),
14 which relates to motor license agents; modifying
15 amount motor license agent required to deposit into
16 certain account; and providing an effective date.

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

18 SECTION 1. AMENDATORY 47 O.S. 2001, Section 1142, as
19 amended by Section 6, Chapter 295, O.S.L. 2006 (47 O.S. Supp. 2006,
20 Section 1142), is amended to read as follows:

21 Section 1142. A. There is hereby created as an official
22 depository of the Oklahoma Tax Commission a special agency account.
23 The Tax Commission is hereby authorized and directed to assign an
24 appropriate and distinctive number or designation for the account
herein created which shall be designated the Oklahoma Tax Commission
Motor License Agent Account. The Tax Commission shall assign an

1 appropriate and distinctive subaccount number or designation for
2 each motor license agent. Every motor license agent appointed under
3 the provisions of the Oklahoma Vehicle License and Registration Act
4 shall safeguard and preserve, in the manner herein required, all
5 monies paid to such agent which the agent is bound to account for
6 and pay over to the Tax Commission.

7 B. Each motor license agent shall establish, in a bank or banks
8 authorized to do a banking business in the state, such special
9 agency account and at any time that the motor license agent
10 accumulates a total amount of receipts of One Hundred Dollars
11 (\$100.00) or more then such motor license agent shall deposit within
12 a period of one (1) banking business day after the close of
13 business, all receipts which the agent is obligated to account for
14 and remit to the Tax Commission in the designated Oklahoma Tax
15 Commission Motor License Agent Account and no such monies shall be
16 deposited in any other banks or other depositories unless the said
17 bank accounts are maintained by the Tax Commission. Provided that,
18 where a motor license agent is doing business in a municipality
19 where there is no bank located, such motor license agent shall have
20 a period of three (3) banking business days after the close of
21 business to make such deposits. Advice of deposit receipts or
22 duplicate deposit receipts, in a form and in an amount prescribed by
23 the Tax Commission, shall be obtained and preserved as directed by
24 the Tax Commission. One shall be retained by the agent, and one

1 shall be immediately forwarded to the Tax Commission. Withdrawals
2 or transfers from such Oklahoma Tax Commission Motor License Agent
3 Account shall be made only by the duly authorized agent of the Tax
4 Commission. That part of the agent's fees to be retained by the
5 agent as ~~his~~ the agent's personal compensation shall not be
6 deposited in said Oklahoma Tax Commission Motor License Agent
7 Account.

8 Each motor license agent shall submit the appropriate reports
9 designated by the Tax Commission to properly account for all funds,
10 regardless of source, received by a motor license agent in the
11 performance of ~~his~~ the agent's duties. Reports shall cover a period
12 from the first day of the month to the fifteenth day of the month
13 and from the sixteenth day of the month to the last day of the
14 month. It shall be the responsibility of the motor license agent to
15 mail or deliver such reports and all documents of all transactions
16 to the Tax Commission within a time period to be established by the
17 Tax Commission.

18 C. Motor license agents shall deposit in such account all
19 monies, taxes and fees collected and received by them as such
20 agents, which they are obligated to account for and remit to the Tax
21 Commission, and it is specifically required that checks or similar
22 instruments accepted or received by such agents for taxes or fees
23 must be deposited in such account, less any amount provided by this
24 act that the agents are entitled to retain as fees.

1 No motor license agent shall withdraw any funds from ~~his~~ the
2 agent's motor license agent account. All checks, drafts, orders and
3 vouchers so deposited shall bear an endorsement to the motor license
4 agent account which endorsement shall include the assigned account
5 number and the agent's subaccount number. Items deposited shall be
6 credited at par and should payment be refused on any such check,
7 draft, order or voucher, or should the same prove otherwise
8 worthless, the amount thereof shall not be charged by the Tax
9 Commission against the individual subaccounts of the agent. The
10 agent shall continue to attempt to require proper payment of all
11 such worthless items, but shall not be personally liable to the Tax
12 Commission for their payment. The Tax Commission or agent shall
13 charge the person issuing the check a fee of Twenty-five Dollars
14 (\$25.00) for each check to cover the costs of the processing of each
15 returned check, and all necessary travel expenses of collection, as
16 provided by the State Travel Reimbursement Act; provided, such
17 charge shall not be made unless efforts have been made to present
18 such check, draft, order or voucher for payment a second time. Any
19 motor license agent who collects a dishonored check pursuant to the
20 provisions of Section 1121 of this title shall also collect a fee of
21 Twenty-five Dollars (\$25.00) and shall be entitled to retain such
22 fee.

23 D. Notwithstanding anything to the contrary, the Tax Commission
24 shall continue to have the exclusive authority and standing to

1 collect any taxes or other revenues owed to the State of Oklahoma or
2 any political subdivision thereof pursuant to the provisions of the
3 Motor Vehicle License and Registration Act.

4 E. It is specifically provided that nothing in this section
5 shall be considered or construed as in any way affecting, relieving
6 or relinquishing the liability of such agent to the Tax Commission
7 for any monies collected by ~~him~~ the agent and due the state or the
8 liability of such agent or any surety on or under the agent's bond
9 made to the Tax Commission.

10 Unless provided otherwise, any motor license agent who fails to
11 comply with any provision of this section shall pay a penalty to be
12 imposed by the Tax Commission. Monies collected for payment of the
13 penalty shall be deposited to the credit of the General Revenue Fund
14 of the State Treasury. Any motor license agent who pays a penalty
15 pursuant to this section shall not allocate his or her payment
16 thereof as a part of his or her operating expenses, but shall use
17 his or her personal funds for payment of the penalty. Such penalty
18 shall be equal to one percent (1%) of the gross amount of the
19 receipts received by the motor license agent for that particular day
20 that the agent fails to deposit all such funds required by this
21 section or one percent (1%) of the gross amount of the receipts
22 received by the motor license agent for the report period that the
23 agent fails to timely mail the required report or remit any excess
24 agent funds as provided in subsection B of this section. Such

1 penalty shall be increased to three percent (3%) of the gross amount
2 of the receipts received for that particular day if the motor
3 license agent fails to fulfill any of said requirements within a
4 period of five (5) days. Provided that such penalty shall be three
5 percent (3%) of the gross amount of the receipts received by the
6 motor license agent for the report period that the agent fails to
7 timely mail the required report or remit any excess agent funds as
8 provided in subsection B of this section if the motor license agent
9 fails to fulfill these requirements within five (5) days.

10 The Tax Commission may waive the penalty for failing to timely
11 file the accounting report required by this section if the Tax
12 Commission finds that:

- 13 1. The funds to which the report applies have been properly
14 deposited;
- 15 2. The failure to timely file the report was due to emergency
16 conditions beyond the control of the agent; and
- 17 3. The report has been filed within a week of the date on which
18 it was required to be filed.

19 It shall be the duty of the Tax Commission to discharge
20 immediately any motor license agent who fails, neglects or refuses
21 to comply with the provisions of this section.

22 SECTION 2. This act shall become effective November 1, 2007.

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24 51-1-7770 CJB 04/05/07