

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 748

By: Mazzei and Wilson of the
Senate

6 and

7 Terrill and Martin (Steve)
8 of the House

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to motor vehicles; amending 47 O.S.
12 2001, Section 2-117, as last amended by Section 8 of
13 Enrolled House Bill No. 1616 of the 1st Session of
14 the 51st Oklahoma Legislature, which relates to
15 traffic-related enforcement authority of the
16 Department of Public Safety; authorizing the
17 Commissioner to designate portions of certain
18 highways within municipalities for special traffic-
19 related enforcement; creating the Oklahoma License
20 Plate Design Task Force; providing for membership,
21 selection of officers, quorum, travel reimbursement
and staff support for task force; requiring
publication of certain report; requiring action
contingent upon statutory authorization; amending 47
O.S. 2001, Section 1142, as amended by Section 6,
Chapter 295, O.S.L. 2006 (47 O.S. Supp. 2006, Section
1142), which relates to motor license agents;
modifying amount motor license agent required to
deposit into certain account; providing for
codification; providing effective dates; and
declaring an emergency.

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

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-117, as
2 last amended by Section 8 of Enrolled House Bill No. 1616 of the 1st
3 Session of the 51st Oklahoma Legislature, is amended to read as
4 follows:

5 Section 2-117. A. The Commissioner of Public Safety and each
6 officer of the Department of Public Safety, as designated and
7 commissioned by the Commissioner, are hereby declared to be peace
8 officers of the State of Oklahoma and shall be so deemed and taken
9 in all courts having jurisdiction of offenses against the laws of
10 the state. Such officers shall have the powers and authority now
11 and hereafter vested by law in other peace officers, including the
12 right and power of search and seizure, except the serving or
13 execution of civil process, and the right and power to investigate
14 and prevent crime and to enforce the criminal laws of this state.

15 B. The officers of the Department shall have the following
16 authority, responsibilities, powers and duties:

17 1. To enforce the provisions of this title and any other law
18 regulating the operation of vehicles or the use of the highways,
19 including, but not limited to, the Motor Carriers Act of this state,
20 or any other laws of this state by the direction of the Governor;

21 2. To arrest without writ, rule, order or process any person
22 detected by them in the act of violating any law of the state;

23 3. When the officer is in pursuit of a violator or suspected
24 violator and is unable to arrest such violator or suspected violator

1 within the limits of the jurisdiction of the Oklahoma Highway Patrol
2 Division, to continue in pursuit of such violator or suspected
3 violator into whatever part of the state may be reasonably necessary
4 to effect the apprehension and arrest of the same, and to arrest
5 such violator or suspected violator wherever the violator may be
6 overtaken;

7 4. To assist in the location of stolen property, including
8 livestock and poultry or the carcasses thereof, and to make any
9 inspection necessary of any truck, trailer or contents thereof in
10 connection therewith;

11 5. At all times to direct all traffic in conformance with law
12 and, in the event of a fire, or other emergency, or to expedite
13 traffic, or to insure safety, to direct traffic as conditions may
14 require, notwithstanding the provisions of law;

15 6. To require satisfactory proof of ownership of the contents
16 of any motor vehicle, including livestock, poultry or the carcasses
17 thereof. In the event that the proof of ownership is not
18 satisfactory, it shall be the duty of the officer to take the motor
19 vehicle, driver, and the contents of the motor vehicle into custody
20 and deliver the same to the sheriff of the county wherein the cargo,
21 motor vehicle and driver are taken into custody;

22 7. When on duty, upon reasonable belief that any vehicle is
23 being operated in violation of any provisions of this title, or any
24 other law regulating the operation of vehicles, to require the

1 driver thereof to stop and exhibit his or her driver license and the
2 certificate of registration issued for the vehicle, if required to
3 be carried in the vehicle pursuant to paragraph 3 of subsection A of
4 Section 1113 of this title, and submit to an inspection of such
5 vehicle, the license plates and certificate of registration thereon,
6 if applicable, or to any inspection and test of the equipment of
7 such vehicle;

8 8. To inspect any vehicle of a type required to be registered
9 hereunder in any public garage or repair shop or in any place where
10 such vehicles are held for sale or wrecking, for the purpose of
11 locating stolen vehicles and investigating the title and
12 registration thereof;

13 9. To serve all warrants relating to the enforcement of the
14 laws regulating the operation of vehicles or the use of the highways
15 and bench warrants issued for nonpayment of fines and costs for
16 moving traffic violations;

17 10. To investigate and report traffic collisions on all
18 interstate and defense highways and on all highways outside of
19 incorporated municipalities, and may investigate traffic collisions
20 within any incorporated municipality upon request of the local law
21 enforcement agency, and to secure testimony of witnesses or of
22 persons involved;

23 11. To investigate reported thefts of motor vehicles, trailers
24 and semitrailers;

1 12. To stop and inspect any motor vehicle or trailer for such
2 mechanical tests as may be prescribed by the Commissioner to
3 determine the roadworthiness of the vehicle. Any vehicle which may
4 be found to be unsafe for use on the highways may be ordered removed
5 from said highway until such alterations or repairs have been made
6 that will render said vehicle serviceable for use on the highway;

7 13. To stop and inspect the contents of all motor vehicles to
8 ascertain whether or not the provisions of all general laws are
9 being observed;

10 14. To enforce the laws of the state relating to the
11 registration and licensing of motor vehicles;

12 15. To enforce the laws relating to the operation and use of
13 vehicles on the highway;

14 16. To enforce and prevent, on the roads of the state highway
15 system, the violation of the laws relating to the size, weight, and
16 speed of commercial motor vehicles and all laws designed for the
17 protection of the highway pavements and structures on such highways;

18 17. To investigate and report to the Corporation Commission and
19 the Oklahoma Tax Commission violation of their rules and the laws
20 governing the transportation of persons and property by motor
21 transportation companies and all other motor carriers for hire;

22 18. To investigate and report violations of all laws relating
23 to the collection of excise taxes on motor vehicle fuels;

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1 19. To regulate the movement of traffic on the roads of the
2 state highway system;

3 20. Whenever possible, to determine persons causing or
4 responsible for the breaking, damaging, or destruction of any
5 improved surfaced roadway, structure, sign, marker, guardrail, or
6 any other appurtenance constructed or maintained by the Department
7 of Transportation, and to arrest persons responsible therefor and to
8 bring them before the proper officials for prosecution;

9 21. To investigate incidents involving an employee of the
10 Department, when such incidents are related to the performance of
11 the duties of the employee; and

12 22. To initiate or assist in manhunts and fugitive
13 apprehensions.

14 C. Whenever any person is arrested by a patrol officer for a
15 traffic violation the provisions of Sections 16-101 through 16-114
16 of this title shall apply.

17 D. 1. Except as provided in this subsection, the powers and
18 duties conferred on the Commissioner and officers of the Department
19 of Public Safety shall not limit the powers and duties of sheriffs
20 or other peace officers of the state or any political subdivision of
21 the state.

22 2. The Oklahoma Highway Patrol Division shall have primary law
23 enforcement authority respecting traffic-related offenses upon the
24 National System of Interstate and Defense Highways, and may have

1 special law enforcement authority on those portions of the federal-
2 aid primary highways and the state highway system which are located
3 within the boundaries and on the outskirts of a municipality, and
4 designated by the Commissioner of Public Safety for such special law
5 enforcement authority. As used in this subsection "outskirts of a
6 municipality" means and shall be determined by presence of the
7 following factors:

- 8 a. low land use density,
- 9 b. absence of any school or residential subdivision
10 requiring direct ingress or egress from the highway,
11 and
- 12 c. a scarcity of retail or commercial business abutting
13 the highway.

14 3. The Commissioner may designate any portion of the National
15 System of Interstate and Defense Highways, and those portions of the
16 federal-aid primary highways and the state highway system which are
17 located within the boundaries of and on the outskirts of a
18 municipality for special traffic-related enforcement by the Oklahoma
19 Highway Patrol Division and issue a written notice to any other law
20 enforcement agency affected thereby. Upon receipt of such notice,
21 the affected law enforcement agency shall not regulate traffic nor
22 enforce traffic-related statutes or ordinances upon such designated
23 portion of the National System of Interstate and Defense Highways or
24 such designated portions of the federal-aid primary highways and the

1 state highway system without prior coordination and written approval
2 of the Commissioner.

3 E. 1. Any of the following persons may request the
4 Commissioner to investigate the traffic-related enforcement
5 practices of a municipal law enforcement agency whose jurisdiction
6 includes portions of the federal-aid primary highways, the state
7 highway system, or both located within the boundaries of and on the
8 outskirts of the municipality:

- 9 a. the district attorney in whose jurisdiction the
10 municipality is located,
- 11 b. a majority of the county commissioners, by resolution,
12 of the county in which the municipality is located,
- 13 c. the State Auditor and Inspector,
- 14 d. the State Attorney General, or
- 15 e. a state legislator in whose district the municipality
16 is located.

17 2. The request shall state that the requesting party believes
18 the enforcement practices are being conducted:

- 19 a. within the boundaries of and on the outskirts of the
20 municipality, and
- 21 b. for the purpose of generating more than fifty percent
22 (50%) of the revenue needed for the operation of the
23 municipality.

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1 3. Upon receipt of a request pursuant to this subsection, the
2 Commissioner may investigate the traffic-related enforcement
3 practices of the municipal law enforcement agency and the receipts
4 and expenditures of the municipality. The law enforcement agency,
5 the municipality, and the requesting party shall cooperate fully
6 with the Commissioner in such an investigation. Upon the completion
7 of the investigation, the Commissioner shall submit a report of the
8 results of the investigation to the Attorney General, who shall make
9 a determination within sixty (60) days of receipt of the report as
10 to whether the enforcement practices of the municipal law
11 enforcement agency are being conducted as provided in subparagraphs
12 a and b of paragraph 2 of this subsection. Upon a determination
13 that the enforcement practices are not being conducted in such a
14 manner, the Attorney General shall notify the Commissioner in
15 writing, and the Commissioner shall take no action to make a
16 designation as provided in paragraph 3 of subsection D of this
17 section. Upon a determination that the enforcement practices are
18 being conducted as provided in subparagraphs a and b of paragraph 2
19 of this subsection, the Attorney General shall notify the
20 Commissioner in writing, and the Commissioner shall make the
21 designation of special traffic-related enforcement as provided in
22 paragraph 3 of subsection D of this section, which shall stay in
23 force for such time as determined by the Commissioner. The
24 Department of Public Safety shall adopt rules to uniformly implement

1 the procedures for initiating, investigating and reporting to the
2 Attorney General the results of a request under the provisions of
3 this subsection and the criteria for determining the length of time
4 the designation of special traffic-related enforcement shall be in
5 force.

6 F. Nothing in this section shall limit a member of the Oklahoma
7 Highway Patrol Division from requesting assistance from any other
8 law enforcement agency nor limit officers of such agency from
9 rendering the requested assistance. The officer and the law
10 enforcement agency responding to the request of the member of the
11 Oklahoma Highway Patrol Division or sheriff's department shall have
12 the same rights and immunities as are possessed by the Oklahoma
13 Highway Patrol Division.

14 G. No state official shall have any power, right, or authority
15 to command, order, or direct any commissioned law enforcement
16 officer of the Department of Public Safety to perform any duty or
17 service contrary to the provisions of this title or any other laws
18 of this state.

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1113.3 of Title 47, unless there
21 is created a duplication in numbering, reads as follows:

22 A. There is hereby created, to continue until December 31,
23 2007, the "Oklahoma License Plate Design Task Force".

24 B. The Task Force shall consist of six (6) members:

1 1. Two members shall be appointed by the Governor;

2 2. Two members shall be appointed by the Speaker of the
3 Oklahoma House of Representatives; and

4 3. Two members shall be appointed by the President Pro Tempore
5 of the State Senate.

6 C. The Speaker of the Oklahoma House of Representatives and the
7 President Pro Tempore of the State Senate shall each designate one
8 member to serve as cochairs of the Task Force. The cochairs shall
9 convene the first meeting of the Task Force. The members of the
10 Task Force shall elect any other officers during the first meeting
11 and upon a vacancy in any office. The Task Force shall meet as
12 often as necessary.

13 D. Appointments to the Task Force shall be made by July 15,
14 2007. Vacancies in any position shall be filled in the same manner
15 as the original appointment.

16 E. A majority of the members of the Task Force shall constitute
17 a quorum. A majority of the members present at a meeting may act
18 for the Task Force.

19 F. Nonlegislative members of the Task Force shall be reimbursed
20 by their appointing agencies or respective agencies for necessary
21 travel expenses incurred in the performance of duties pursuant to
22 the provisions of the State Travel Reimbursement Act. Legislative
23 members of the Task Force shall be reimbursed for necessary travel
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1 expenses incurred in the performance of duties in accordance with
2 the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

3 G. Administrative support for the Task Force including, but not
4 limited to, personnel necessary to ensure the proper performance of
5 the duties and responsibilities of the Task Force shall be provided
6 by the Oklahoma Tax Commission to be supplemented, if necessary, by
7 the state agencies involved in the Task Force, and the staff of the
8 Oklahoma House of Representatives and the State Senate. All
9 participating state agencies shall provide for any administrative
10 support requested by the Task Force.

11 H. The Task Force shall study and choose the design of a new
12 official Oklahoma license plate in consultation with the Tax
13 Commission and the Department of Public Safety.

14 I. The Task Force shall publish a final report by December 31,
15 2007.

16 J. The final decision of the Task Force shall be communicated
17 to the Tax Commission which shall, contingent upon statutory
18 authorization, implement the license plate reissue using the design
19 selected by the Task Force.

20 SECTION 3. AMENDATORY 47 O.S. 2001, Section 1142, as
21 amended by Section 6, Chapter 295, O.S.L. 2006 (47 O.S. Supp. 2006,
22 Section 1142), is amended to read as follows:

23 Section 1142. A. There is hereby created as an official
24 depository of the Oklahoma Tax Commission a special agency account.

1 The Tax Commission is hereby authorized and directed to assign an
2 appropriate and distinctive number or designation for the account
3 herein created which shall be designated the Oklahoma Tax Commission
4 Motor License Agent Account. The Tax Commission shall assign an
5 appropriate and distinctive subaccount number or designation for
6 each motor license agent. Every motor license agent appointed under
7 the provisions of the Oklahoma Vehicle License and Registration Act
8 shall safeguard and preserve, in the manner herein required, all
9 monies paid to such agent which the agent is bound to account for
10 and pay over to the Tax Commission.

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

1 business to make such deposits. Advice of deposit receipts or
2 duplicate deposit receipts, in a form and in an amount prescribed by
3 the Tax Commission, shall be obtained and preserved as directed by
4 the Tax Commission. One shall be retained by the agent, and one
5 shall be immediately forwarded to the Tax Commission. Withdrawals
6 or transfers from such Oklahoma Tax Commission Motor License Agent
7 Account shall be made only by the duly authorized agent of the Tax
8 Commission. That part of the agent's fees to be retained by the
9 agent as ~~his~~ the agent's personal compensation shall not be
10 deposited in said Oklahoma Tax Commission Motor License Agent
11 Account.

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

22 C. Motor license agents shall deposit in such account all
23 monies, taxes and fees collected and received by them as such
24 agents, which they are obligated to account for and remit to the Tax

1 Commission, and it is specifically required that checks or similar
2 instruments accepted or received by such agents for taxes or fees
3 must be deposited in such account, less any amount provided by this
4 act that the agents are entitled to retain as fees.

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

1 Twenty-five Dollars (\$25.00) and shall be entitled to retain such
2 fee.

3 D. Notwithstanding anything to the contrary, the Tax Commission
4 shall continue to have the exclusive authority and standing to
5 collect any taxes or other revenues owed to the State of Oklahoma or
6 any political subdivision thereof pursuant to the provisions of the
7 Motor Vehicle License and Registration Act.

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

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

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

14 The Tax Commission may waive the penalty for failing to timely
15 file the accounting report required by this section if the Tax
16 Commission finds that:

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

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

4 SECTION 4. Sections 1 and 3 of this act shall become effective
5 November 1, 2007.

6 SECTION 5. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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