ENGROSSED SENATE
BILL NO. 1699 By: Bingman of the Senate

and

Adkins of the House

[ commercial vehicle registration - specifying duties - Tax Commission and Corporation Commission - emergency ]

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 162.1, as amended by Section 2, Chapter 238, O.S.L. 2006 (47 O.S. Supp. 2007, Section 162.1), is amended to read as follows:

Section 162.1 A. The Corporation Commission is authorized to promulgate all rules and regulations necessary to enable the State of Oklahoma to participate in the single state registration system for motor carriers authorized by the Intermodal Surface Transportation Efficiency Act of 1991, 49 U.S.C., Section 11506 (1991), and by applicable rules and regulations of the Interstate Commerce Commission.

B. The Corporation Commission is authorized to apply rules and regulations to interstate motor carriers exempt from the Interstate Commerce Commission regulations.

C. The Corporation Commission is authorized to promulgate rules necessary to enable this state to participate in the Unified Carrier Registration System for interstate motor carriers, brokers, forwarders and leasing companies and interstate motor carriers holding intrastate authority as set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Subtitle C-Unified Carrier Registration Act of 2005.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 1120, as amended by Section 15, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2007, Section 1120), is amended to read as follows:

Section 1120. A. The Corporation Commission may, when in the interest of the State of Oklahoma and its residents, enter into the International Registration Plan or other compacts or agreements with other states to permit motor vehicle registration and license taxes on any truck, bus, or truck-tractor on a proportional basis commensurate with the use of Oklahoma highways. Proportional registration under such plans may be permitted for vehicles engaged in interstate commerce or combined interstate and intrastate commerce. Any action taken by the Oklahoma Tax Commission with respect to the International Registration Plan or other such compacts or agreements prior to the effective date of this act shall remain in effect unless altered by the Corporation Commission pursuant to its authority to do so after the effective date of this act.

B. The Corporation Commission shall require that such proportional registration be based on the percentage of miles actually operated by such vehicles or fleets of vehicles in the State of Oklahoma in the ~~preceding year~~ reporting period in proportion to the total fleet miles operated both within and without Oklahoma. If ~~mileage data is not available for the preceding fiscal year~~ the registrant did not incur mileage for at least ninety (90) days of the reporting period, the Corporation Commission may accept ~~the latest twelve-month period available~~ the mileage from the preceding mileage reporting period. If the registrant did not incur mileage during the preceding reporting period, the registrant shall estimate its future operations in accordance with the International Registration Plan. Such percentage figure, so determined by the Corporation Commission, shall be the Oklahoma mileage factor. In computing the taxes under the foregoing formula, the Corporation Commission shall first compute the license fees for the entire fleet and then multiply the amount by the Oklahoma mileage factor on a dollar basis.

C. Upon receipt of the Oklahoma license and registration tax, which shall be paid by cash and/or certified funds, as computed under the provisions of the Oklahoma Vehicle License and Registration Act, the Corporation Commission shall register all such fleet vehicles, and shall issue a license plate, cab card or decal for each of such vehicles identifying it as part of an interstate

fleet. The Corporation Commission may, upon satisfactory review of the payment history of an applicant, waive the requirement for payment in cash or certified funds.

D. Vehicles so registered on a prorated basis shall be considered fully licensed in Oklahoma and shall be exempt from all further registration or license fees under the provisions of the Oklahoma Vehicle License and Registration Act; provided that such fleet vehicles are proportionally licensed in some other state, territory or possession of the United States or some foreign province, state or country with which the Corporation Commission has entered into a prorationing compact or agreement.

If a vehicle is permanently withdrawn from a proportionally registered fleet and a replacement vehicle is added to the fleet in the same calendar ~~quarter~~ month, the replacement vehicle shall be considered fully registered as provided in Section 1133 of this title and Section 14-109 of this title, if the replacement vehicle is registered for a weight equal to or less than the vehicle permanently withdrawn, or if additional registration fees are paid when the replacement vehicle is registered for a weight greater than the vehicle withdrawn. If a vehicle is permanently withdrawn from a proportionally registered fleet and is not replaced by another vehicle in the same calendar ~~quarter~~ month, credit shall be allowed as otherwise provided in this section.

E. Vehicles subsequently added to a proportionally registered fleet after commencement of the registration year shall be proportionally registered by applying the mileage percentage used in the original application for such fleet for such registration period to the regular registration fees due with respect to such vehicle for the remainder of the registration year.

F. If a vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold or otherwise completely removed from service, credit shall be allowed. Such credit shall be a sum equal to the amount paid with respect to such vehicle when it was first proportionally registered in the registration year, reduced by ~~one fourth (1/4) for each calendar quarter or fraction thereof~~ those months elapsing since the beginning of the registration year. The credit may be applied against subsequent additions to the fleet to be prorated or for other additional registration fees assessed. In no event shall credit be allowed for fees beyond such registration year, nor shall any such amount be subject to refund. Provided, further, that vehicles removed from a prorated fleet or sold to a nonprorated fleet for operation in Oklahoma shall be registered in Oklahoma for the remaining portion of the year.

G. Mileage proportions for interstate fleets not operated in this state during the preceding year will be determined by the Corporation Commission on the basis of the operations of the fleet

the preceding year in other states plus the estimated operation in Oklahoma, or, if no operations were conducted the previous year, a full statement of the proposed method of operation. In the absence of a full statement of the proposed method of operation, the Corporation Commission shall require the applicant to utilize an estimated mileage chart provided by the Corporation Commission.

H. The records of total mileage operated in all states upon which the application is made for a period of three (3) years following the year upon which the application is based shall be preserved. Upon request of the Corporation Commission, such records shall be made available for audit as to accuracy of computation and payments. The Corporation Commission may enter into agreements with agencies of other states administering motor vehicle registration laws for joint audits of any such records.

I. The Corporation Commission may enter into compacts or agreements with other states or other countries or subdivisions of such countries allowing reciprocal privileges to vehicles based in such other states and operating in interstate commerce if the vehicles are properly registered therein.

J. Interchanged vehicles properly registered in another state may be granted reciprocal privileges when engaged in a continuous movement in interstate commerce, but must register in this state if used in intrastate commerce.

K. In addition to those taxes or fees imposed by the Oklahoma Vehicle License and Registration Act, the same or substantially the same type or category of tax or fee may be imposed upon an out-of-state resident as is imposed upon residents of Oklahoma for the same or substantially similar use of a vehicle in such other state in the amount, or approximate total amount, of any fee or tax, including property, motor fuel, excise, sales, use or mileage tax required by the laws of such other state to be paid by a resident of this state making the same or similar use of a like vehicle in such state.

The Corporation Commission shall have the authority to promulgate rules which provide procedures for implementation of comparable regulatory fees and taxes for vehicles used in this state by residents of other states.

Any revenue derived from this subsection shall be apportioned in the same manner as provided in Section 1104 of this title.

It is the intention of the Legislature that the motor vehicle registration and licensing fees assessed against residents of other states operating similar vehicles in Oklahoma be comparably the same as the motor vehicle registration and licensing fees assessed against residents of Oklahoma operating a similar vehicle for a similar purpose in such other state; and that the Corporation Commission diligently monitor the motor vehicle registration and licensing fees assessed against residents of Oklahoma by other states and to provide for uniform treatment of Oklahoma residents

operating vehicles in other states and for residents of other states operating vehicles in Oklahoma.

L. The provisions of this section shall not apply to tour bus operations issued permits pursuant to Section 1171 of this title.

M. ~~Applicants registering fleet vehicles through electronic means may choose their initial monthly period of registration.~~

~~N.~~ The Corporation Commission shall assess a fee of Three Dollars ($3.00) to process an amended registration filed under the International Registration Plan to add a jurisdiction to an existing registration under the plan. The collection and payment of the fee shall be a prerequisite to amending the registration. All revenue derived pursuant to the provisions of this subsection shall be apportioned and distributed as provided for in Section 1104 of this title.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 1124, as amended by Section 17, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2007, Section 1124), is amended to read as follows:

Section 1124. A. Any person, firm or corporation owning or possessing a commercial vehicle who:

1. Is a resident of the United States;

2. Is required to register the vehicle under the laws of this state;

3. Is not authorized to drive the vehicle on the public roads of this state for lack of registration or reciprocity of this

state's laws with the laws of the state in which the vehicle is registered; and

4. Operates the vehicle for commercial purposes;

may receive a temporary permit from the Corporation Commission ~~or any motor license agent in this state~~. The permit shall be recognized in lieu of registration in this state. The permit shall indicate the time and date of its issuance and shall be valid for a period not to exceed seventy-two (72) hours from such indicated time.

B. A fee of Twelve Dollars ($12.00) shall be charged for the issuance of the temporary permit which shall be apportioned in the same manner as other vehicle license fees are apportioned under the terms of the motor vehicle license and registration laws of this state.

C. The temporary permit shall not be issued to any person, firm or corporation owning or possessing a commercial vehicle, truck, truck-tractor, trailer, semitrailer or motor bus, who has been apprehended for violating the registration laws of this state. If apprehended, the vehicle shall be immediately subject to such registration laws. Possession of the temporary permit shall not affect any liability or duty which the owner or operator of a vehicle might otherwise have by law. An operator of a vehicle possessing an expired, altered or undated temporary permit shall be

deemed to be operating an unregistered motor vehicle and shall be subject to registration and penalties therefor as provided by law.

D. The Corporation Commission may enter into an agreement with any person or corporation located within or without the state for transmission of temporary permits for a commercial vehicle by way of a facsimile machine or other device when the Corporation Commission determines that such agreement is in the best interests of the state.

E. The Corporation Commission may enter into an agreement with any state for transmission of that state's temporary permits for a commercial vehicle by way of a facsimile machine or other device when the Corporation Commission determines that such agreement is in the best interests of the state.

F. Any provision of this act providing for proportional registration under reciprocal agreements and the International Registration Plan that relate to the promulgation of rules shall not be subject to the provisions of Section 1151 of this title. The Corporation Commission may promulgate such rules as it deems necessary to administer the provisions of this section. The Corporation Commission may prescribe an application form for the temporary permit and such other forms as it deems appropriate.

~~F.~~ G. The provisions of this section shall not apply to tour bus operations issued permits pursuant to Section 1171 of this title, or to vehicles entering this state for the express purpose of

transporting the resources and equipment necessary to support production activities of the motion picture, television and video film industries operating within the state. Any such vehicle properly registered under the laws of another state or not registered with this state pursuant to the provisions of the International Registration Plan and used for the above-stated purpose shall not be subject to the registration requirements as set forth in Section 1101 et seq. of this title while conducting said business.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 1124.1, as last amended by Section 73, Chapter 1, O.S.L. 2005 (47 O.S. Supp. 2007, Section 1124.1), is amended to read as follows:

Section 1124.1 The Corporation Commission is authorized to issue temporary permits or authorization for any vehicle to be proportionally registered in this state or which is currently proportionally registered in this state under the provisions of the International Registration Plan. Temporary permits may be issued for ~~adding vehicles or jurisdictions~~ vehicles added to the fleet, duplicate cab cards, corrected cab cards, replacement license plates, adding jurisdictions, and weight increases to established accounts in good standing. New accounts may be issued temporary permits only after all fees are paid. Such temporary permit or authorization shall authorize a vehicle to be driven on the public roads of this state pending completion by the Corporation Commission

of an application for proportional registration of such vehicle. The temporary permit or authorization shall be recognized in lieu of registration in this state. The temporary permit or authorization shall clearly indicate the ~~time and~~ date of issuance, ~~the reason for the issuance,~~ and the date of expiration, which shall be forty-five (45) days, including the day of issuance. The Corporation Commission may enter into reciprocal agreements with other states for recognition of temporary permits or authorizations.

The Corporation Commission may assign the temporary permits or authorization to ~~owners or operators of vehicles~~ registrants subject to proportional registration and such ~~owners or operators~~ registrants may issue the temporary permits or authorization as needed for the operation of vehicles that will be operated as a fleet of proportionally registered vehicles. ~~Owners or operators~~ Registrants shall be accountable for all temporary permits or authorization assigned to them by the Corporation Commission and shall be subject to audit by the Corporation Commission.

The Corporation Commission may enter into an agreement with any person located within or without the state for the distribution and issuance of temporary permits or authorizations for any vehicle which is currently proportionally registered in this state under the provisions of the International Registration Plan when the Corporation Commission determines that such agreement is in the best interest of the state. Any such person or corporation shall be

accountable for all temporary permits or authorizations assigned to them by the Corporation Commission and shall be subject to audit by the Corporation Commission.

The phrase "currently proportionally registered", as used in this section, shall be defined as any prorate account for which a properly completed original application has been received by the Corporation Commission and all corresponding and assessed fees have been paid in full.

Self-issue temporary permits or authorizations may be issued to a maximum of twenty-five percent (25%) of the size of the registrant's fleet, and any registrant with a fleet of fewer than six vehicles may be assigned one self-issue permit.

An application shall be filed with the Corporation Commission within fifteen (15) days to proportionally register any vehicle for which a temporary permit or authorization has been issued.

Any ~~owner, operator or person~~ registrant that has entered into such an agreement with the Corporation Commission, that is unable to produce, or refuses to produce, upon request by the Corporation Commission, any unissued temporary permit or authorization assigned to such ~~entity~~ registrant, shall be subject to the following penalty:

A fee of One Hundred Eighty Dollars ($180.00) which is an amount equal to the fee for the number of seventy-two-hour temporary

permits, provided for in Section 1124 of this title, that would be required for the operation of a vehicle for a forty-five-day period.

If, as the result of an audit, it is determined that any ~~owner, operator or person~~ registrant that has entered into such an agreement with the Corporation Commission has used temporary permits or authorizations to avoid payment of proportional registration fees, all remaining unissued temporary permits or authorizations in the possession of such ~~owner, operator or person~~ registrant that has entered into such an agreement with the Corporation Commission shall be returned to the Corporation Commission, and the Corporation Commission may deny further use of temporary permits or authorizations by such ~~owner, operator or person~~ registrant that has entered into such an agreement with the Corporation Commission for a minimum period of six (6) months.

SECTION 5. AMENDATORY 47 O.S. 2001, Section 1124.2, is amended to read as follows:

Section 1124.2 A. The ~~Oklahoma Tax~~ Corporation Commission shall be authorized to issue permits, commonly known as "hunters permits", for any vehicles to be proportionally registered pursuant to the provisions of Section 1120 of ~~Title 47 of the Oklahoma Statutes~~ this title. This temporary registration shall be honored by all member jurisdictions of the International Registration Plan.

B. The permit authorized by this section shall be issued in a manner that will allow an ~~owner operator~~ owner, not operating as a

lessor, to move an empty vehicle from one lessee-carrier fleet to another without violating general registration laws. ~~As used in this section, "owner-operator" shall have the same meaning as set forth in the International Registration Plan.~~

C. The permit authorized by this section shall be valid for a period of forty-five (45) days, including the day of issuance. A fee in the amount of Twenty-five Dollars ($25.00) shall be charged for the issuance of the permit. All fees collected from the issuance of the permits shall be apportioned pursuant to Section 1104 of ~~Title 47 of the Oklahoma Statutes~~ this title.

D. A separate permit shall be required for each proportionally registered power unit and trailer and shall not be issued for a registered gross weight in excess of the empty weight of such vehicle or trailer.

E. The permits authorized by this section may be obtained from the ~~Tax~~ Corporation Commission, ~~any motor license agent,~~ or any person or corporation located within or without the state if the ~~Tax~~ Corporation Commission has entered into an agreement for transmission of these permits with such person or corporation upon determination that an agreement shall be in the best interest of the state.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 1133, as last amended by Section 75, Chapter 1, O.S.L. 2005 (47 O.S. Supp. 2007, Section 1133), is amended to read as follows:

Section 1133. A. The following license fees shall be paid annually to the Oklahoma Tax Commission or Corporation Commission, as applicable, upon the registration of the following vehicles:

For each commercial vehicle over eight thousand (8,000) pounds as defined in Section 1102 of this title, the license fee shall be based on the combined laden weight of the vehicle or combination of vehicles. The license fees shall be computed and assessed at the following rates:

| | | |
|---|---|---|
| 1. | From 8,001 pounds to 15,000 pounds | $ 95.00 |
| 2. | From 15,001 pounds to 18,000 pounds | 120.00 |
| 3. | From 18,001 pounds to 21,000 pounds | 155.00 |
| 4. | From 21,001 pounds to 24,000 pounds | 190.00 |
| 5. | From 24,001 pounds to 27,000 pounds | 225.00 |
| 6. | From 27,001 pounds to 30,000 pounds | 260.00 |
| 7. | From 30,001 pounds to 33,000 pounds | 295.00 |
| 8. | From 33,001 pounds to 36,000 pounds | 325.00 |
| 9. | From 36,001 pounds to 39,000 pounds | 350.00 |
| 10. | From 39,001 pounds to 42,000 pounds | 375.00 |
| 11. | From 42,001 pounds to 45,000 pounds | 400.00 |
| 12. | From 45,001 pounds to 48,000 pounds | 425.00 |
| 13. | From 48,001 pounds to 51,000 pounds | 450.00 |
| 14. | From 51,001 pounds to 54,000 pounds | 475.00 |
| 15. | From 54,001 pounds to 57,000 pounds | 648.00 |
| 16. | From 57,001 pounds to 60,000 pounds | 681.00 |

17. From 60,001 pounds to 63,000 pounds 713.00

18. From 63,001 pounds to 66,000 pounds 746.00

19. From 66,001 pounds to 69,000 pounds 778.00

20. From 69,001 pounds to 72,000 pounds 817.00

21. From 72,001 pounds to 73,280 pounds 857.00

22. From 73,281 pounds to 74,000 pounds 870.00

23. From 74,001 pounds to 75,000 pounds 883.00

24. From 75,001 pounds to 76,000 pounds 896.00

25. From 76,001 pounds to 77,000 pounds 909.00

26. From 77,001 pounds to 78,000 pounds 922.00

27. From 78,001 pounds to 79,000 pounds 935.00

28. From 79,001 pounds to 80,000 pounds 948.00

29. From 80,001 pounds to 81,000 pounds 961.00

30. From 81,001 pounds to 82,000 pounds 974.00

31. From 82,001 pounds to 83,000 pounds 987.00

32. From 83,001 pounds to 84,000 pounds 1000.00

33. From 84,001 pounds to 85,000 pounds 1013.00

34. From 85,001 pounds to 86,000 pounds 1026.00

35. From 86,001 pounds to 87,000 pounds 1039.00

36. From 87,001 pounds to 88,000 pounds 1052.00

37. From 88,001 pounds to 89,000 pounds 1065.00

38. From 89,001 pounds to 90,000 pounds 1078.00

B. After the fifth year's registration in this or any other state, the license fee upon any truck registered on a basis of the

combined laden weight not in excess of fifteen thousand (15,000) pounds shall be assessed at fifty percent (50%) of the fee computed and assessed for each of the first five (5) years. On the seventh and all subsequent years of registration in this or any other state, on such truck, such license fees shall be assessed and computed at fifty percent (50%) of the amount due on the sixth year's registration. In no event shall such annual license fee on any truck be less than Ten Dollars ($10.00) nor shall the annual license fee of any truck-tractor be less than Ninety-five Dollars ($95.00).

C. In addition to the fees required by subsection A of this section, there shall be paid a registration fee of Forty Dollars ($40.00) upon the first registration in this state after July 1, 1985, and upon the transfer of ownership of any frac tank, as defined by Section 54 of Title 17 of the Oklahoma Statutes, rental trailer, commercial trailer or semitrailer designed to be pulled and usually pulled by a truck or truck-tractor.

Thereafter, a fee of Four Dollars ($4.00) shall be paid annually for each frac tank, rental trailer, commercial trailer or semitrailer. The fee of Four Dollars ($4.00) shall be due and payable on January 1 of each year ~~and shall be the only fee due~~ on any frac tank, rental trailer, commercial trailer or semitrailer registered under this section.

Upon the payment of the registration fee of Forty Dollars ($40.00), a nonexpiring registration certificate and identification

plate shall be issued for each frac tank, rental trailer, commercial trailer or semitrailer. The nonexpiring identification plate shall remain displayed on the frac tank, rental trailer, commercial trailer or semitrailer for which the identification plate is issued until such frac tank, trailer or semitrailer is sold or removed from service.

A receipt shall be issued upon the payment of the annual fee. The receipt shall show the total fee paid for one or more frac tanks, rental trailers, commercial trailers or semitrailers. The receipt shall be retained by the owner of any frac tank, rental trailer, commercial trailer or semitrailer for a period of three (3) years and shall be subject to audit by the Tax Commission or Corporation Commission.

Any frac tank, commercial trailer or semitrailer licensed pursuant to this section shall not be permitted to be operated on the highways of this state when such frac tank, commercial trailer or semitrailer is being operated by a resident of this state, or is being operated by a person operating a vehicle or vehicles domiciled in this state and required by law to be licensed in Oklahoma, unless the pulling truck or truck-tractor has been licensed pursuant to this section. In no event shall any truck, truck-tractor, frac tank, trailer, or semitrailer used in the furtherance of any commercial enterprise be permitted to operate on the highways of

this state or register at a smaller license fee than that prescribed in this section except as provided in this section.

D. For each fiscal year, notwithstanding the provisions of Section 1104 of this title, the first Four Hundred Thousand Dollars ($400,000.00) of all monies collected pursuant to subsections A, B and C of this section shall be paid by the Tax Commission to the State Treasurer of the State of Oklahoma who shall deposit same each fiscal year, or such lesser amount as may accrue each fiscal year, under the provisions of this section to the credit of the General Revenue Fund of the State Treasury. All monies collected in excess of Four Hundred Thousand Dollars ($400,000.00) each fiscal year shall be apportioned as provided in Section 1104 of this title.

E. If any vehicle is used for a purpose other than that for which it has been registered, the owner of the vehicle shall be required to immediately reregister the vehicle at the appropriate rate. If any vehicle is placed or operated upon any street, road or highway of this state with a laden weight in excess of that for which it is licensed, the license fee for such increased laden weight shall become due, and the owner of the vehicle shall be required to immediately reregister the vehicle at the increased rate. Provided that, in either event there shall be credited upon the increased license fee for such reregistration for any portion of the year or period remaining after the change in use or increase in laden weight shall have occurred a proportionate part of the license

fees previously paid. If this reregistration is made voluntarily by the owner, the ratable proportion of the credit allowed shall be determined as of the date the reregistration is voluntarily made. If the reregistration is not voluntarily made but occurs as a result of the discovery by any enforcement officer of an improper operation of the vehicle, that shall be considered prima facie evidence that it has been improperly registered for the entire portion of the year covered by the improper registration. Provided further that the ratable credit shall be allowed only on the first reregistration of any vehicle during any calendar year. If, during the calendar year, subsequent changes of license plate are desired, the ratable credit shall not be allowed but the owner of the vehicle shall be required to pay the license fee due for that portion of the calendar year remaining without benefit of any additional credits. No owner of a motor vehicle shall possess at any time more than one license plate for any vehicle owned by such person. No reregistration shall be made until the current license plate previously issued has been surrendered.

Any person who has paid a fee under the terms and provisions of this subsection may at any time within one (1) year after the payment of such fee file with the Tax Commission or Corporation Commission a claim under oath for refund stating the grounds therefor. However, the Tax Commission or Corporation Commission shall allow refunds only where the amount of tax paid has been

erroneously computed or determined through clerical errors or miscalculations. No refund shall be allowed by the Tax Commission or Corporation Commission of a tax paid by the person where such payment is made through a mistake as to the legal misinterpretation or construction of the provisions of this section. Any refunds made by the Tax Commission or Corporation Commission pursuant to this subsection shall be made out of any monies collected pursuant to this subsection and which have not been apportioned.

F. The annual license fee required by this section is intended to cover only the motor vehicle for which it is issued. The Tax Commission or Corporation Commission upon application, when a licensed truck-tractor has been destroyed by fire or accident, shall credit the unused portion of the annual license fee of the vehicle toward the license fee of a replacement vehicle of equal registered weight. The amount of credit shall not exceed the license fee due on the replacement vehicle. The Tax Commission or Corporation Commission shall not be required to make a refund. If the replacement vehicle is to be registered at a greater weight, the applicant shall pay an additional sum equivalent to the difference between the unused portion of the annual license fee for the original motor vehicle and the license fee due for the replacement motor vehicle.

G. The license fees provided for in this section shall be paid each year whether or not the vehicle is operated on the public highway.

H. Notwithstanding the provision of any other statute in respect to the time for payment of license fees on motor vehicles, if the total amount of the annual license fees due from any resident owner, either individual, partnership, or Oklahoma corporation, upon the registration, on or before January 15 of any year, of commercial trucks, truck-tractors, frac tanks, trailers or semitrailers exceeds the sum of One Thousand Dollars ($1,000.00), the license fees may be paid in equal semiannual installments. The first installment shall be paid at the time of the application for registration of the vehicles and not later than January 15 of each year, and the second installment shall be paid on or before the first day of July of such year.

This subsection shall not operate to reduce the amount of the license fees due. If any installment is not paid on or before the date due, all unpaid installments of license fees for such year on each vehicle shall be deemed delinquent and immediately due and payable, and there shall be added a penalty of twenty-five cents ($0.25) per day to the balance of the license fee due on each vehicle for each day the balance remains unpaid up to thirty (30) days, after which the penalty due on each vehicle shall be Twenty-five Dollars ($25.00). The penalty for vehicles registered by

weight in excess of eight thousand (8,000) pounds shall be an amount equal to the license fee. On and after the thirtieth day each such vehicle involved shall be considered as improperly licensed and as not currently registered, and all of the provisions of the Oklahoma Vehicle License and Registration Act relating to enforcement, including the provisions for the seizure and sale of vehicles not registered and not displaying current license plates, shall apply to the vehicles.

All fees and taxes levied by the Oklahoma Vehicle License and Registration Act shall become and remain a first lien upon the vehicle upon which the fees or taxes are due until paid. The lien shall have priority to all other liens. No title to any vehicle may be transferred until the unpaid balance on the vehicle has been paid in full. Provided that any unpaid balance of the license fees shall remain and become a lien against any and all property of the owner, both real and personal, for so long as any license tag fee balance shall remain unpaid. Any unpaid balance under these provisions shall be immediately due and payable by the owner if any vehicle is sold, wrecked, or otherwise retired from service.

Any person electing to pay license fees on a semiannual installment basis, as herein authorized, shall be required to purchase a new license tag for the last half and shall pay the sum of Four Dollars ($4.00) for each tag to cover the costs of the license tags. The license tags for each half shall be plainly

marked in designating the half for which they were issued. A validation sticker may be used in lieu of a metal tag where appropriate. Such license tag fee shall be, in addition to the license fees or any other fees, collected on each application as provided by statute and shall be apportioned according to the provisions of Section 1104 of this title.

I. Any person pulling or towing any vehicle intended to be resold, into or through this state, shall pay a fee of Three Dollars ($3.00) for the vehicle towing and Three Dollars ($3.00) for the one being towed. It shall be unlawful to operate any series of such units on the public highways of this state at a distance closer than five hundred (500) feet from each other. All fees and taxes levied by the terms and provisions of this section shall become and remain a first lien upon the vehicle upon which the fees or taxes are due until paid. The lien shall be prior, superior, and paramount to all other liens of whatsoever kind or character.

J. In addition to any other penalties prescribed by law, the following penalty shall be imposed by enforcement officers upon any owner or operator of a commercial vehicle registered under the provisions of this section when the laden weight or combined laden weight of such vehicle is found to be in excess of that for which registered. The penalty shall be imposed each and every time a vehicle is found to be in violation of the registered laden weight or combined laden weight.

The penalty shall be not less than Twenty Dollars ($20.00) when such vehicle exceeds the laden weight or combined laden weight by two thousand one (2,001) pounds; thereafter, an additional penalty of not less than Twenty Dollars ($20.00) shall be imposed for each additional one thousand (1,000) pounds or fraction thereof of weight in excess of the registered laden weight or combined laden weight. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section ~~3~~ 1161 of this ~~act~~ title. Revenue from such penalties shall be apportioned as provided in Section ~~3 of this act~~ 1161 of this title.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 1143.1, is amended to read as follows:

Section 1143.1 A. There is hereby created the Oklahoma Motor License Agent Indemnity Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of annual assessments levied on motor license agencies. All monies accruing to the credit of the funds are hereby appropriated and may be expended, in amounts and as authorized by the Legislature, by the Department of Central Services. The purpose of the fund is to ensure that the Oklahoma Tax Commission recovers tax revenue and the Corporation Commission recovers apportioned vehicle registration fees, not remitted to ~~the~~ either Commission because of negligence, malfeasance or fraud by a motor license agent. In addition, claims

arising from tag agent errors and omissions may be paid from monies in the fund in excess of Five Hundred Thousand Dollars ($500,000.00). Upon final determination by the Tax Commission of a tax revenue shortage or liability of a motor license agent whose agency has been closed, or by the Corporation Commission of apportioned vehicle registration fee shortage, a claim in the amount of such liability may be made by ~~the Tax~~ either Commission against the fund. The claim shall be paid out of the fund by the Department. At least sixty (60) days' written notice shall be given to the delinquent motor license agent before any such claim is paid. The Department shall have the power to seek restitution to the fund from any motor license agent whose liability was paid out of the fund. The monies in the fund shall be invested by the State Treasurer and the interest shall be deposited in the fund.

B. Each fiscal year, the Department shall collect and deposit into the fund an annual assessment from all motor license agencies that have been operating for a period of not less than one (1) year. Such assessments shall be payable by each motor license agency on a quarterly basis. The amount on which the assessment shall be based shall be determined annually for each motor license agency by the Tax Commission by dividing the volume of tax monies collected each fiscal year by the agency by the number of reporting periods required by the Tax Commission. The assessments shall be in the following amounts:

1. Each motor license agency which has been in operation for more than three (3) years and subject to the assessment pursuant to this subsection shall pay such assessment as follows:

a. when the fund contains less than Five Hundred Thousand Dollars ($500,000.00) on June 30 of any year, the assessment shall be one percent (1%) of the amount determined for the motor license agency by the Tax Commission, and

b. when the fund contains Five Hundred Thousand Dollars ($500,000.00) or more on June 30 of any year, the Tax Commission shall reduce or suspend the assessment for such agencies if the Commission determines that the fund is fiscally sound and meets the needs for which the fund is established.

Provided, however, if the fund contains less than Five Hundred Thousand Dollars ($500,000.00) at any time during the fiscal year for which the Tax Commission has reduced or suspended the assessment hereunder, the Tax Commission shall immediately issue an assessment pursuant to subparagraph a of this paragraph in an amount equal to the amount which would have been paid during the remaining quarters of the fiscal year; and

2. Each motor license agency which has been in operation for less than three (3) years but more than one (1) year shall pay the assessment in an amount equal to one percent (1%) of the amount

determined for the motor license agency by the Tax Commission until the agency reaches the end of its third year of operation. At such time, such agency shall be subject to the assessment specified in subparagraph a of paragraph 1 of this subsection.

C. Any assessments required by subsection B of this section, shall be paid in quarterly amounts and due on September 30, December 30, March 30 and June 30 of each year. Such payments shall be deemed delinquent after October 15, January 15, April 15 and July 15 of each year. Motor license agents who are delinquent in remitting any quarterly payment for their operating agencies in excess of fifteen (15) days after the date of the delinquency shall be subject to dismissal.

D. No annual assessment shall exceed One Thousand Two Hundred Dollars ($1,200.00).

SECTION 8. AMENDATORY 68 O.S. 2001, Section 603, is amended to read as follows:

Section 603. A. In consideration of the use of the highways of this state, and in addition to all other taxes levied for such purposes, all persons who import gasoline and diesel fuel into this state in the fuel supply tank or tanks of motor vehicles or in any other containers for use in propelling such vehicles on the highways for commercial purposes, shall report and pay to the ~~Tax~~ Corporation Commission a tax for such use of the highways as provided in this section. The tax shall be levied and imposed as follows:

1. Gasoline, sixteen cents ($0.16) per gallon; and

2. Diesel fuel, thirteen cents ($0.13) per gallon.

The tax levied and imposed shall be measured and determined by the number of gallons of gasoline and diesel fuel so imported and actually used on the highways of this state. No gasoline or diesel fuel on which the tax levied by the Motor Fuel Tax Code has been paid to this state shall be used in computing the tax imposed by this section. In the event the tax levied by this section can be more accurately determined on a mileage basis, that is, by determining and using the total number of miles traveled in Oklahoma, or in case it is practicable to so determine the tax, the ~~Tax~~ Corporation Commission is authorized to accept and approve such basis.

B. Each person licensed pursuant to Section 607 of this title who properly remits the tax pursuant to this act shall be entitled to retain one and twenty-five one-hundredths percent (1.25%) of the tax imposed on gasoline by this section and remitted by that licensee and one and fifty-four one-hundredths percent (1.54%) of the tax imposed on diesel fuel by this section and remitted by the licensee to cover the costs of administration imposed by this act including record keeping, report filing, and remitting of the tax. The retention of a percentage of the tax permitted by this section shall not be allowed by a licensee if any report or the tax remittance is delinquent.

SECTION 9. AMENDATORY 68 O.S. 2001, Section 605, is amended to read as follows:

Section 605. The tax levied by this article shall not apply to motor fuel or diesel fuel imported into and used on the highways of this state by:

1. Persons operating motor vehicles commonly designated as automobiles or recreational vehicles which are constructed for and being used solely for the transportation of persons for purposes other than for hire or compensation;

2. Any person operating a motor vehicle or combination of vehicles used, designed, or maintained for transportation of persons or property, and a gross vehicle weight of less than twenty-six thousand (26,000) pounds;

3. Persons importing livestock and farm products in the raw state, including cotton, whether in the seed or ginned, and including cottonseed and baled hay, when such commodities are moved from farm to market, or from market to farm on a vehicle or on vehicles owned and operated by a bona fide farmer not engaged in motor vehicle transportation on a commercial scale;

4. Tour buses operated to transport passengers by charter or special service as defined by the Interstate Commerce Commission;

5. Motor fuel or diesel fuel used in vehicles owned by the United States of America; and

6. Persons importing motor fuel/diesel fuel for use into this state having applied for and received a temporary fuel permit from the ~~Tax~~ Corporation Commission.

No exemption from the tax levied by Section 603 of this title and as set forth in this section shall be construed as an exemption from the tax levied by the Motor Fuel Tax Code.

SECTION 10. AMENDATORY 68 O.S. 2001, Section 607, as last amended by Section 13, Chapter 238, O.S.L. 2006 (68 O.S. Supp. 2007, Section 607), is amended to read as follows:

Section 607. A. Before any person imports gasoline or diesel fuel into the state in the fuel supply tank or tanks of any motor vehicle, or in any other container for use on the highways of this state, such person shall file application for and obtain a Motor Fuel/Diesel Fuel Importer for Use License. Such requirement shall be complied with notwithstanding the tax levied by the Motor Fuel Tax Code has been paid on such gasoline or diesel fuel. However, persons exempted by Section 605 of this title from the tax levied pursuant to Section 603 of this title shall not be required to obtain such license. The application required by this section shall be verified and filed on a form prescribed and furnished by the Corporation Commission showing the name and address and kind of business of the applicant, a designation of the principal place of business and such other information as the Corporation Commission may require. Such application must also contain, as a condition to

the issuance of the license, an agreement by the applicant to comply with the requirements of Section 601 et seq. of this title and the rules of the Corporation Commission.

B. Before any such application may be approved by the Corporation Commission, the applicant must fully comply with the contribution requirements pursuant to Section 607.2 of this title. In addition, prior to the approval, the Corporation Commission may require the applicant to file a bond payable to the State of Oklahoma conditioned upon compliance with the provisions of Section 601 et seq. of this title and the rules of the Corporation Commission in a sum of not more than Ten Thousand Dollars ($10,000.00), the amount thereof to be fixed by an order of the Corporation Commission. During the license year, the amount of any such bond required may be increased or reduced by the Corporation Commission at its discretion, and the Corporation Commission may in its discretion, waive the filing of a bond by any person who regularly purchases sufficient gasoline or diesel fuel on which the motor fuel or diesel fuel excise tax has been paid to this state when the tax equals or exceeds the amount of the tax levied against such person under Section 601 et seq. of this title.

C. Upon approval of such application and bond, the Corporation Commission shall issue to the applicant a nontransferable Motor Fuel/Diesel Fuel Importer for Use License bearing a distinctive number, at no charge to the applicant. The license shall be issued

on an annual basis and shall remain in full force and effect until surrendered, suspended, or canceled in the manner provided by law. Each license shall be valid only for the operation of motor vehicles on the highways of this state by the person to whom it is issued including motor vehicles transporting persons or property in furtherance of the business of the licensee under a lease, a contract or any other arrangement, whether permanent or temporary in nature. The Corporation Commission may issue one (1) license credential to evidence the compliance of the applicant with the provisions of this section and the provisions of Section 1120 of Title 47 of the Oklahoma Statutes.

D. In consideration of the use of the highways of this state, and in addition to all other taxes levied for such purposes, all persons who import motor fuel/diesel fuel into the state in the fuel supply tank or tanks of motor vehicles for use in propelling the vehicles on the highways for commercial purposes may receive a temporary motor fuel/diesel fuel permit from the Corporation Commission. This permit shall be recognized in lieu of licensing requirements in this state. The permit shall indicate the time and date of its issuance and shall be valid for a period not to exceed one hundred twenty (120) hours from such indicated time.

A fee of Twenty-five Dollars ($25.00) shall be charged for the issuance of the temporary permit. Eight Dollars ($8.00) of the fee shall be apportioned in the same manner as other motor fuel/diesel

fuel revenue. Two Dollars ($2.00) of the fee shall be retained by the Corporation Commission and apportioned as provided in Section 1167 of this title. Fifteen Dollars ($15.00) of the fee shall be paid to the State Treasurer for deposit in the General Revenue Fund.

Any person importing motor fuel/diesel fuel into this state for use while in possession of an expired, altered or undated temporary fuel permit shall be deemed to be operating without proper licensing and shall be subject to licensing and penalties as provided for in the Motor Fuel/Diesel Fuel Importer for Use Tax Code.

The Corporation Commission may prescribe an application form for the temporary permit and such other forms as it deems appropriate. The Corporation Commission, without notice, may suspend the issuance of temporary permits to any person found to be in violation of the Motor Fuel/Diesel Fuel Importer for Use Tax Code or similar laws of this state.

The Corporation Commission may enter into an agreement with any person or corporation located within or without the state for transmission of temporary permits by way of a facsimile machine or other device when the Corporation Commission determines that such agreement is in the best interests of the state.

<u>The Corporation Commission may enter into an agreement with any state for transmission of that state's temporary permits by way of a facsimile machine or other device when the Corporation Commission</u>

determines that such agreement is in the best interests of the state.

E. In lieu of the requirements as provided for in Section 601 et seq. of this title in respect to licensing, bonding, reporting and auditing, the Corporation Commission may, when in the best interests of this state and its residents, enter into the International Fuel Tax Agreement or other cooperative compacts or agreements with another state or other states or provinces to permit base state or base jurisdiction licensing of persons importing motor fuel or diesel fuel into this state and liable for the tax levied pursuant to Section 601 et seq. of this title and provide for the cooperation and assistance among the member states and provinces in the administration and collection of motor fuels consumption and use taxes. Any action taken by the Oklahoma Tax Commission with respect to the International Fuel Tax Agreement or other such compacts or agreements prior to the effective date of this act shall remain in effect unless altered by the Corporation Commission pursuant to its authority to do so after the effective date of this act.

SECTION 11. AMENDATORY 68 O.S. 2001, Section 2103, as last amended by Section 8, Chapter 295, O.S.L. 2006 (68 O.S. Supp. 2007, Section 2103), is amended to read as follows:

Section 2103. A. 1. Except as otherwise provided in Sections 2101 through 2108 of this title, there shall be levied an excise tax upon the transfer of legal ownership of any vehicle registered in

this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state. Except for persons that possess an agricultural exemption pursuant to Section 1358.1 of this title, the excise tax shall be levied upon transfers of legal ownership of all-terrain vehicles and motorcycles used exclusively off roads and highways which occur on or after July 1, 2005. The excise tax for new and used all-terrain vehicles and motorcycles used exclusively off roads and highways shall be levied at four and one-half percent (4 1/2%) of the actual sales price of each new and used all-terrain vehicle and motorcycle used exclusively off roads and highways before any discounts or credits are given for a trade-in. Provided, the minimum excise tax assessment for such all-terrain vehicles and motorcycles used exclusively off roads and highways shall be Five Dollars ($5.00). The excise tax for new vehicles shall be levied at three and one-fourth percent (3 1/4%) of the value of each new vehicle. The excise tax for used vehicles shall be as follows:

a. from October 1, 2000, until June 30, 2001, Twenty Dollars ($20.00) on the first One Thousand Dollars ($1,000.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle,

b. for the year beginning July 1, 2001, and ending June 30, 2002, Twenty Dollars ($20.00) on the first One

Thousand Two Hundred Fifty Dollars ($1,250.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle, and

c. for the year beginning July 1, 2002, and all subsequent years, Twenty Dollars ($20.00) on the first One Thousand Five Hundred Dollars ($1,500.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle.

2. There shall be levied an excise tax of Ten Dollars ($10.00) for any:

a. truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the Oklahoma Statutes, for a laden weight or combined laden weight of ~~fifty four thousand one (54,001)~~ fifty-five thousand (55,000) pounds or more,

b. trailer or semitrailer registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, and

c. frac tank, as defined by Section 54 of Title 17 of the Oklahoma Statutes, and registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes.

Except for frac tanks, the excise tax levied pursuant to this paragraph shall not apply to special mobilized machinery, trailers, or semitrailers manufactured, modified or remanufactured for the purpose of providing services other than transporting cargo over the highways of this state. The excise tax levied pursuant to this paragraph shall also not apply to pickup trucks, vans, or sport utility vehicles.

3. The tax levied pursuant to this section shall be due at the time of the transfer of legal ownership or first registration in this state of such vehicle; provided, the tax shall not be due at the time of the issuance of a certificate of title for an all-terrain vehicle or motorcycle used exclusively off roads and highways which is not required to be registered but which the owner chooses to register pursuant to the provisions of subsection B of Section 1115.3 of Title 47 of the Oklahoma Statutes, and shall be collected by the Oklahoma Tax Commission or Corporation Commission, as applicable, or an appointed motor license agent, at the time of the issuance of a certificate of title for any such vehicle. In the event an excise tax is collected on the transfer of legal ownership or use of the vehicle during any calendar year, then an additional excise tax must be collected upon all subsequent transfers of legal

ownership. In computing the motor vehicle excise tax, the amount collected shall be rounded to the nearest dollar. The excise tax levied by this section shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. Any person failing or refusing to pay the tax as herein provided on or before date of delinquency shall pay in addition to the tax a penalty of twenty-five cents ($0.25) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax.

B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes shall be in lieu of all sales and use taxes levied pursuant to the Sales Tax Code or the Use Tax Code. The transfer of legal ownership of any motor vehicle as used in this section and the Sales Tax Code and the Use Tax Code shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is registered in Oklahoma pursuant to Section 1120 of Title 47 of the Oklahoma Statutes or any frac tank, trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes. The excise tax levied pursuant to this section shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:

1. Husband and wife;

2. Parent and child; or

3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:

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

b. a defective new original vehicle returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

2. The credit allowed pursuant to paragraph 1 of this subsection shall be in the amount of the excise tax which was paid for the new original vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event shall the credit be refunded.

E. Despite any other definitions of the terms “new vehicle” and “used vehicle”, to the contrary, contained in any other law, the term “new vehicle” as used in this section shall also include any vehicle of the latest manufactured model which is owned or acquired by a licensed used motor vehicle dealer which has not previously been registered in this state and upon which the motor vehicle excise tax as set forth in this section has not been paid. However, upon the sale or transfer by a licensed used motor vehicle dealer located in this state of any such vehicle which is the latest manufactured model, the vehicle shall be considered a used vehicle for purposes of determining excise tax.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 4th day of March, 2008.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2008.

_____
Presiding Officer of the House
of Representatives