

ENROLLED SENATE
BILL NO. 748

By: Mazzei and Wilson of the
Senate

and

Terrill and Martin (Steve)
of the House

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 2-117, as last amended by Section 8 of Enrolled House Bill No. 1616 of the 1st Session of the 51st Oklahoma Legislature, which relates to traffic-related enforcement authority of the Department of Public Safety; authorizing the Commissioner to designate portions of certain highways within municipalities for special traffic-related enforcement; creating the Oklahoma License Plate Design Task Force; providing for membership, 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 an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-117, as last amended by Section 8 of Enrolled House Bill No. 1616 of the 1st

Session of the 51st Oklahoma Legislature, is amended to read as follows:

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

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

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

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

3. When the officer is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the jurisdiction of the Oklahoma Highway Patrol Division, to continue in pursuit of such violator or suspected violator into whatever part of the state may be reasonably necessary to effect the apprehension and arrest of the same, and to arrest such violator or suspected violator wherever the violator may be overtaken;

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

5. At all times to direct all traffic in conformance with law and, in the event of a fire, or other emergency, or to expedite

traffic, or to insure safety, to direct traffic as conditions may require, notwithstanding the provisions of law;

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

7. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of this title, or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver license and the certificate of registration issued for the vehicle, if required to be carried in the vehicle pursuant to paragraph 3 of subsection A of Section 1113 of this title, and submit to an inspection of such vehicle, the license plates and certificate of registration thereon, if applicable, or to any inspection and test of the equipment of such vehicle;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The Oklahoma Highway Patrol Division shall have primary law enforcement authority respecting traffic-related offenses upon the National System of Interstate and Defense Highways, and may have special law enforcement authority on those portions of the federal-aid primary highways and the state highway system which are located within the boundaries and on the outskirts of a municipality, and designated by the Commissioner of Public Safety for such special law enforcement authority. As used in this subsection "outskirts of a municipality" means and shall be determined by presence of the following factors:

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

3. The Commissioner may designate any portion of the National System of Interstate and Defense Highways, and those portions of the federal-aid primary highways and the state highway system which are located within the boundaries of and on the outskirts of a municipality for special traffic-related enforcement by the Oklahoma

Highway Patrol Division and issue a written notice to any other law enforcement agency affected thereby. Upon receipt of such notice, the affected law enforcement agency shall not regulate traffic nor enforce traffic-related statutes or ordinances upon such designated portion of the National System of Interstate and Defense Highways or such designated portions of the federal-aid primary highways and the state highway system without prior coordination and written approval of the Commissioner.

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

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

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

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

3. Upon receipt of a request pursuant to this subsection, the Commissioner may investigate the traffic-related enforcement practices of the municipal law enforcement agency and the receipts

and expenditures of the municipality. The law enforcement agency, the municipality, and the requesting party shall cooperate fully with the Commissioner in such an investigation. Upon the completion of the investigation, the Commissioner shall submit a report of the results of the investigation to the Attorney General, who shall make a determination within sixty (60) days of receipt of the report as to whether the enforcement practices of the municipal law enforcement agency are being conducted as provided in subparagraphs a and b of paragraph 2 of this subsection. Upon a determination that the enforcement practices are not being conducted in such a manner, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall take no action to make a designation as provided in paragraph 3 of subsection D of this section. Upon a determination that the enforcement practices are being conducted as provided in subparagraphs a and b of paragraph 2 of this subsection, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall make the designation of special traffic-related enforcement as provided in paragraph 3 of subsection D of this section, which shall stay in force for such time as determined by the Commissioner. The Department of Public Safety shall adopt rules to uniformly implement the procedures for initiating, investigating and reporting to the Attorney General the results of a request under the provisions of this subsection and the criteria for determining the length of time the designation of special traffic-related enforcement shall be in force.

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

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

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

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

B. The task force shall consist of six (6) members:

1. Two members shall be appointed by the Governor;

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

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

C. The Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate shall each designate one member to serve as cochairs of the task force. The cochairs shall convene the first meeting of the task force. The members of the task force shall elect any other officers during the first meeting and upon a vacancy in any office. The task force shall meet as often as necessary.

D. Appointments to the task force shall be made by July 15, 2007. Vacancies in any position shall be filled in the same manner as the original appointment.

E. A majority of the members of the task force shall constitute a quorum. A majority of the members present at a meeting may act for the task force.

F. Nonlegislative members of the task force shall be reimbursed by their appointing agencies or respective agencies for necessary travel expenses incurred in the performance of duties pursuant to the provisions of the State Travel Reimbursement Act. Legislative members of the task force shall be reimbursed for necessary travel expenses incurred in the performance of duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

G. Administrative support for the task force including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the task force shall be provided by the Oklahoma Tax Commission to be supplemented, if necessary, by the state agencies involved in the task force, and the staff of the Oklahoma House of Representatives and the State Senate. All participating state agencies shall provide for any administrative support requested by the task force.

H. The task force shall study and choose the design of a new official Oklahoma license plate in consultation with the Tax Commission and the Department of Public Safety.

I. The task force shall publish a final report by December 31, 2007.

J. The final decision of the task force shall be communicated to the Tax Commission which shall, contingent upon statutory authorization, implement the license plate reissue using the design selected by the task force.

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

Section 1142. A. There is hereby created as an official depository of the Oklahoma Tax Commission a special agency account. The Tax Commission is hereby authorized and directed to assign an 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 appropriate and distinctive subaccount number or designation for each motor license agent. Every motor license agent appointed under the provisions of the Oklahoma Vehicle License and Registration Act shall safeguard and preserve, in the manner herein required, all monies paid to such agent which the agent is bound to account for and pay over to the Tax Commission.

B. Each motor license agent shall establish, in a bank or banks authorized to do a banking business in the state, such special agency account and at any time that the motor license agent accumulates a total amount of receipts of One Hundred Dollars

(\$100.00) or more than such motor license agent shall deposit within a period of one (1) banking business day after the close of business, all receipts which the agent is obligated to account for and remit to the Tax Commission in the designated Oklahoma Tax Commission Motor License Agent Account and no such monies shall be deposited in any other banks or other depositories unless the said bank accounts are maintained by the Tax Commission. Provided that, where a motor license agent is doing business in a municipality where there is no bank located, such motor license agent shall have a period of three (3) banking business days after the close of business to make such deposits. Advice of deposit receipts or duplicate deposit receipts, in a form and in an amount prescribed by the Tax Commission, shall be obtained and preserved as directed by the Tax Commission. One shall be retained by the agent, and one shall be immediately forwarded to the Tax Commission. Withdrawals or transfers from such Oklahoma Tax Commission Motor License Agent Account shall be made only by the duly authorized agent of the Tax Commission. That part of the agent's fees to be retained by the agent as ~~his~~ the agent's personal compensation shall not be deposited in said Oklahoma Tax Commission Motor License Agent Account.

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

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

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

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

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

Unless provided otherwise, any motor license agent who fails to comply with any provision of this section shall pay a penalty to be imposed by the Tax Commission. Monies collected for payment of the penalty shall be deposited to the credit of the General Revenue Fund of the State Treasury. Any motor license agent who pays a penalty pursuant to this section shall not allocate his or her payment

thereof as a part of his or her operating expenses, but shall use his or her personal funds for payment of the penalty. Such penalty shall be equal to one percent (1%) of the gross amount of the receipts received by the motor license agent for that particular day that the agent fails to deposit all such funds required by this section or one percent (1%) of the gross amount of the receipts received by the motor license agent for the report period that the agent fails to timely mail the required report or remit any excess agent funds as provided in subsection B of this section. Such penalty shall be increased to three percent (3%) of the gross amount of the receipts received for that particular day if the motor license agent fails to fulfill any of said requirements within a period of five (5) days. Provided that such penalty shall be three percent (3%) of the gross amount of the receipts received by the motor license agent for the report period that the agent fails to timely mail the required report or remit any excess agent funds as provided in subsection B of this section if the motor license agent fails to fulfill these requirements within five (5) days.

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

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

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

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

SECTION 5. 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 24th day of May, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2007.

Presiding Officer of the House
of Representatives