

SB 301

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THE STATE SENATE  
Thursday, February 19, 2009

Senate Bill No. 301  
As Amended

SENATE BILL NO. 301 - By: Bingman of the Senate and Thompson of the House.

[ motor carriers - modifying participation - effective date ]

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 162.1, as last amended by Section 1, Chapter 168, O.S.L. 2008 (47 O.S. Supp. 2008, 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~~

1 Registration System for interstate motor carriers, brokers,  
2 forwarders and leasing companies and interstate motor carriers  
3 holding intrastate authority as set forth in the Safe, Accountable,  
4 Flexible, Efficient Transportation Equity Act: A Legacy for Users  
5 (SAFETEA-LU), Subtitle C-Unified Carrier Registration Act of 2005.

6 SECTION 2. AMENDATORY 47 O.S. 2001, Section 1120, as  
7 last amended by Section 2, Chapter 168, O.S.L. 2008 (47 O.S. Supp.  
8 2008, Section 1120), is amended to read as follows:

9 Section 1120. A. The Corporation Commission may, when in the  
10 interest of the State of Oklahoma and its residents, enter into the  
11 International Registration Plan or other compacts or agreements with  
12 other states to permit motor vehicle registration and license taxes  
13 on any truck, bus, or truck-tractor on a proportional basis  
14 commensurate with the use of Oklahoma highways. Proportional  
15 registration under such plans may be permitted for vehicles engaged  
16 in interstate commerce or combined interstate and intrastate  
17 commerce. Any action taken by the Oklahoma Tax Commission with  
18 respect to the International Registration Plan or other such  
19 compacts or agreements prior to ~~the effective date of this act~~ July  
20 1, 2004 shall remain in effect unless altered by the Corporation  
21 Commission pursuant to its authority to do so after the effective  
22 date of this act.

1           B. The Corporation Commission shall require that such  
2 proportional registration be based on the percentage of miles  
3 actually operated by such vehicles or fleets of vehicles in the  
4 State of Oklahoma in the reporting period in proportion to the total  
5 fleet miles operated both within and without Oklahoma. If the  
6 registrant did not incur mileage for at least ninety (90) days of  
7 the reporting period, the Corporation Commission may accept the  
8 mileage from the preceding mileage reporting period. If the  
9 registrant did not incur mileage during the preceding reporting  
10 period, the registrant shall estimate its future operations in  
11 accordance with the International Registration Plan. Such  
12 percentage figure, so determined by the Corporation Commission,  
13 shall be the Oklahoma mileage factor. In computing the taxes under  
14 the foregoing formula, the Corporation Commission shall first  
15 compute the license fees for the entire fleet and then multiply the  
16 amount by the Oklahoma mileage factor on a dollar basis.

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

1 the payment history of an applicant, waive the requirement for  
2 payment in cash or certified funds.

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

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

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

7 F. If a vehicle is permanently withdrawn from a proportionally  
8 registered fleet because it has been destroyed, sold or otherwise  
9 completely removed from service, credit shall be allowed. Such  
10 credit shall be a sum equal to the amount paid with respect to such  
11 vehicle when it was first proportionally registered in the  
12 registration year, reduced by those months elapsing since the  
13 beginning of the registration year. The credit may be applied  
14 against subsequent additions to the fleet to be prorated or for  
15 other additional registration fees assessed. In no event shall  
16 credit be allowed for fees beyond such registration year, nor shall  
17 any such amount be subject to refund. Provided, further, that  
18 vehicles removed from a prorated fleet or sold to a nonprorated  
19 fleet for operation in Oklahoma shall be registered in Oklahoma for  
20 the remaining portion of the year.

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

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

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

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

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

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

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

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

16 It is the intention of the Legislature that the motor vehicle  
17 registration and licensing fees assessed against residents of other  
18 states operating similar vehicles in Oklahoma be comparably the same  
19 as the motor vehicle registration and licensing fees assessed  
20 against residents of Oklahoma operating a similar vehicle for a  
21 similar purpose in such other state; and that the Corporation  
22 Commission diligently monitor the motor vehicle registration and  
23 licensing fees assessed against residents of Oklahoma by other

1 states and to provide for uniform treatment of Oklahoma residents  
2 operating vehicles in other states and for residents of other states  
3 operating vehicles in Oklahoma.

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

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

14 SECTION 3. AMENDATORY 47 O.S. 2001, Section 1124, as  
15 last amended by Section 3, Chapter 168, O.S.L. 2008 (47 O.S. Supp.  
16 2008, Section 1124), is amended to read as follows:

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

- 19 1. Is a resident of the United States;
- 20 2. Is required to register the vehicle under the laws of this  
21 state;
- 22 3. Is not authorized to drive the vehicle on the public roads  
23 of this state for lack of registration or reciprocity of this

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

3 4. Operates the vehicle for commercial purposes;  
4 may receive a temporary permit from the Corporation Commission. The  
5 permit shall be recognized in lieu of registration in this state.  
6 The permit shall indicate the time and date of its issuance and  
7 shall be valid for a period not to exceed seventy-two (72) hours  
8 from such indicated time.

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

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

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

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

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

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

22 G. The provisions of this section shall not apply to ~~tour bus~~  
23 ~~operations issued permits pursuant to Section 1171 of this title, or~~

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

11 SECTION 4. AMENDATORY 47 O.S. 2001, Section 1139, as  
12 last amended by Section 22, Chapter 522, O.S.L. 2004 (47 O.S. Supp.  
13 2008, Section 1139), is amended to read as follows:

14 Section 1139. A. In addition to vehicle license fees or taxes  
15 imposed upon vehicles in this state, every person operating any  
16 intercity motor bus upon, over, along or across any public highway  
17 of this state shall, in order to reimburse the state for the  
18 maintenance and upkeep of public highways of the state and for the  
19 administration and enforcement of the provisions of this act, pay to  
20 the Corporation Commission the following taxes or fees:

21 A tax of one-half (1/2) mill for each mile each passenger is  
22 transported over the public highways of this state. The tax levied  
23 by this section shall apply to those motor vehicles designed,

1 constructed and used primarily for the purpose of transportation of  
2 persons.

3 B. Every person as defined by this section shall keep an  
4 accurate permanent record in this state, for a period of three (3)  
5 years, of all trips made by the person's respective vehicles, which  
6 record shall show the dates, origin, routes, destination and current  
7 vehicle license numbers, and shall make and file with the  
8 Corporation Commission monthly reports upon or before the fifteenth  
9 day of each month covering operations for the preceding calendar  
10 month in such detail as may be required by the Corporation  
11 Commission, to be accompanied by a certified check, bank draft or  
12 money order in the amount of the mileage taxes and fees shown to be  
13 due.

14 C. Any taxes or fees provided for in this section, if not paid  
15 when due, shall then be delinquent and bear penalty at the rate of  
16 twelve percent (12%) per annum, when such taxes have been reported  
17 by the taxpayer, and at the rate of twenty-four percent (24%) per  
18 annum upon all taxes not reported within thirty (30) days after the  
19 date herein fixed for the filing of monthly reports.

20 ~~D. The provisions of this section shall not apply to tour bus~~  
21 ~~operations issued permits pursuant to Section 1171 of this title.~~

1 SECTION 5. AMENDATORY 68 O.S. 2001, Section 605, as last  
2 amended by Section 9, Chapter 168, O.S.L. 2008 (68 O.S. Supp. 2008,  
3 Section 605), is amended to read as follows:

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

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

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

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

21 ~~4. Four buses operated to transport passengers by charter or~~  
22 ~~special service as defined by the Interstate Commerce Commission;~~

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

3       ~~6.~~ 5. Persons importing motor fuel/diesel fuel for use into  
4 this state having applied for and received a temporary fuel permit  
5 from the Corporation Commission.

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

9       SECTION 6.           AMENDATORY           68 O.S. 2001, Section 607, as last  
10 amended by Section 10, Chapter 168, O.S.L. 2008 (68 O.S. Supp. 2008,  
11 Section 607), is amended to read as follows:

12       Section 607. A. Before any person imports gasoline or diesel  
13 fuel into the state in the fuel supply tank or tanks of any motor  
14 vehicle, or in any other container for use on the highways of this  
15 state, such person shall file application for and obtain a Motor  
16 Fuel/Diesel Fuel Importer for Use License. Such requirement shall  
17 be complied with notwithstanding the tax levied by the Motor Fuel  
18 Tax Code has been paid on such gasoline or diesel fuel. However,  
19 persons exempted by Section 605 of this title from the tax levied  
20 pursuant to Section 603 of this title shall not be required to  
21 obtain such license. The application required by this section shall  
22 be verified and filed on a form prescribed and furnished by the  
23 Corporation Commission showing the name and address and kind of

1 business of the applicant, a designation of the principal place of  
2 business and such other information as the Corporation Commission  
3 may require. Such application must also contain, as a condition to  
4 the issuance of the license, an agreement by the applicant to comply  
5 with the requirements of Section 601 et seq. of this title and the  
6 rules of the Corporation Commission.

7 B. Before any such application may be approved by the  
8 Corporation Commission, the applicant must fully comply with the  
9 contribution requirements pursuant to Section 607.2 of this title.  
10 In addition, prior to the approval, the Corporation Commission may  
11 require the applicant to file a bond payable to the State of  
12 Oklahoma conditioned upon compliance with the provisions of Section  
13 601 et seq. of this title and the rules of the Corporation  
14 Commission in a sum of not more than Ten Thousand Dollars  
15 (\$10,000.00), the amount thereof to be fixed by an order of the  
16 Corporation Commission. During the license year, the amount of any  
17 such bond required may be increased or reduced by the Corporation  
18 Commission at its discretion, and the Corporation Commission may in  
19 its discretion, waive the filing of a bond by any person who  
20 regularly purchases sufficient gasoline or diesel fuel on which the  
21 motor fuel or diesel fuel excise tax has been paid to this state  
22 when the tax equals or exceeds the amount of the tax levied against  
23 such person under Section 601 et seq. of this title.

1 C. Upon approval of such application and bond, the Corporation  
2 Commission shall issue to the applicant a nontransferable Motor  
3 Fuel/Diesel Fuel Importer for Use License bearing a distinctive  
4 number, at no charge to the applicant. The license shall be issued  
5 on an annual basis and shall remain in full force and effect until  
6 surrendered, suspended, or canceled in the manner provided by law.  
7 Each license shall be valid only for the operation of motor vehicles  
8 on the highways of this state by the person to whom it is issued  
9 including motor vehicles transporting persons or property in  
10 furtherance of the business of the licensee under a lease, a  
11 contract or any other arrangement, whether permanent or temporary in  
12 nature. The Corporation Commission may issue one (1) license  
13 credential to evidence the compliance of the applicant with the  
14 provisions of this section and the provisions of Section 1120 of  
15 Title 47 of the Oklahoma Statutes.

16 D. In consideration of the use of the highways of this state,  
17 and in addition to all other taxes levied for such purposes, all  
18 persons who import motor fuel/diesel fuel into the state in the fuel  
19 supply tank or tanks of motor vehicles for use in propelling the  
20 vehicles on the highways for commercial purposes may receive a  
21 temporary motor fuel/diesel fuel permit from the Corporation  
22 Commission. This permit shall be recognized in lieu of licensing  
23 requirements in this state. The permit shall indicate the time and

1 date of its issuance and shall be valid for a period not to exceed  
2 one hundred twenty (120) hours from such indicated time.

3 A fee of Twenty-five Dollars (\$25.00) shall be charged for the  
4 issuance of the temporary permit. Eight Dollars (\$8.00) of the fee  
5 shall be apportioned in the same manner as other motor fuel/diesel  
6 fuel revenue. Two Dollars (\$2.00) of the fee shall be retained by  
7 the Corporation Commission and apportioned as provided in Section  
8 1167 of ~~this title~~ Title 47 of the Oklahoma Statutes. Fifteen  
9 Dollars (\$15.00) of the fee shall be paid to the State Treasurer for  
10 deposit in the General Revenue Fund.

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

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

22 The Corporation Commission may enter into an agreement with any  
23 person or corporation located within or without the state for

1 transmission of temporary permits by way of a facsimile machine or  
2 other device when the Corporation Commission determines that such  
3 agreement is in the best interests of the state.

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

9 E. In lieu of the requirements as provided for in Section 601  
10 et seq. of this title in respect to licensing, bonding, reporting  
11 and auditing, the Corporation Commission may, when in the best  
12 interests of this state and its residents, enter into the  
13 International Fuel Tax Agreement or other cooperative compacts or  
14 agreements with another state or other states or provinces to permit  
15 base state or base jurisdiction licensing of persons importing motor  
16 fuel or diesel fuel into this state and liable for the tax levied  
17 pursuant to Section 601 et seq. of this title and provide for the  
18 cooperation and assistance among the member states and provinces in  
19 the administration and collection of motor fuels consumption and use  
20 taxes. Any action taken by the Oklahoma Tax Commission with respect  
21 to the International Fuel Tax Agreement or other such compacts or  
22 agreements prior to ~~the effective date of this act~~ June 9, 2004  
23 shall remain in effect unless altered by the Corporation Commission

1 pursuant to its authority to do so after the effective date of this  
2 act.

3 SECTION 7. This act shall become effective November 1, 2009.

4 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-10-09 - DO PASS,  
5 As Amended and Coauthored.