

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 301

By: Bingman

4  
5  
6 AS INTRODUCED

7 An Act relating to motor carriers; amending 47 O.S.  
8 2001, Section 162.1, as last amended by Section 1,  
Chapter 168, O.S.L. 2008 (47 O.S. Supp. 2008, Section  
9 162.1), which relates to powers and duties of the  
Corporation Commission; removing authority to  
10 participate in certain single-state registration  
system; removing authorization to apply certain  
11 rules; amending 47 O.S. 2001, Section 1120, as last  
amended by Section 2, Chapter 168, O.S.L. 2008 (47  
12 O.S. Supp. 2008, Section 1120), which relates to  
proportional registration; prohibiting permits for  
13 certain tour bus operations; amending 47 O.S. 2001,  
Section 1124, as last amended by Section 3, Chapter  
14 168, O.S.L. 2008 (47 O.S. Supp. 2008, Section 1124),  
which relates to commercial permits; modifying  
15 application for certain commercial vehicles; amending  
47 O.S. 2001, Section 1139, as last amended by  
16 Section 22, Chapter 522, O.S.L. 2004 (47 O.S. Supp.  
2008, Section 1139), which relates to certain bus  
17 tax; modifying application for certain tour bus  
operations; amending 68 O.S. 2001, Section 605, as  
18 last amended by Section 9, Chapter 168, O.S.L. 2008  
(68 O.S. Supp. 2008, Section 605), which relates to  
19 motor fuel taxes; modifying exemption for certain  
tour bus operations; amending 68 O.S. 2001, Section  
20 607, as last amended by Section 10, Chapter 168,  
O.S.L. 2008 (68 O.S. Supp. 2008, Section 607), which  
21 relates to motor fuel tax exemptions; clarifying  
statutory reference; and providing an effective date.

22  
23  
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 162.1, as  
2 last amended by Section 1, Chapter 168, O.S.L. 2008 (47 O.S. Supp.  
3 2008, Section 162.1), is amended to read as follows:

4 Section 162.1 ~~A. The Corporation Commission is authorized to~~  
5 ~~promulgate all rules and regulations necessary to enable the State~~  
6 ~~of Oklahoma to participate in the single state registration system~~  
7 ~~for motor carriers authorized by the Intermodal Surface~~  
8 ~~Transportation Efficiency Act of 1991, 49 U.S.C., Section 11506~~  
9 ~~(1991), and by applicable rules and regulations of the Interstate~~  
10 ~~Commerce Commission.~~

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

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

21 SECTION 2. AMENDATORY 47 O.S. 2001, Section 1120, as  
22 last amended by Section 2, Chapter 168, O.S.L. 2008 (47 O.S. Supp.  
23 2008, Section 1120), is amended to read as follows:

24

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

15 B. The Corporation Commission shall require that such  
16 proportional registration be based on the percentage of miles  
17 actually operated by such vehicles or fleets of vehicles in the  
18 State of Oklahoma in the reporting period in proportion to the total  
19 fleet miles operated both within and without Oklahoma. If the  
20 registrant did not incur mileage for at least ninety (90) days of  
21 the reporting period, the Corporation Commission may accept the  
22 mileage from the preceding mileage reporting period. If the  
23 registrant did not incur mileage during the preceding reporting  
24 period, the registrant shall estimate its future operations in

1 accordance with the International Registration Plan. Such  
2 percentage figure, so determined by the Corporation Commission,  
3 shall be the Oklahoma mileage factor. In computing the taxes under  
4 the foregoing formula, the Corporation Commission shall first  
5 compute the license fees for the entire fleet and then multiply the  
6 amount by the Oklahoma mileage factor on a dollar basis.

7 C. Upon receipt of the Oklahoma license and registration tax,  
8 which shall be paid by cash and/or certified funds, as computed  
9 under the provisions of the Oklahoma Vehicle License and  
10 Registration Act, the Corporation Commission shall register all such  
11 fleet vehicles, and shall issue a license plate, cab card or decal  
12 for each of such vehicles identifying it as part of an interstate  
13 fleet. The Corporation Commission may, upon satisfactory review of  
14 the payment history of an applicant, waive the requirement for  
15 payment in cash or certified funds.

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

24

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

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

19        F. If a vehicle is permanently withdrawn from a proportionally  
20 registered fleet because it has been destroyed, sold or otherwise  
21 completely removed from service, credit shall be allowed. Such  
22 credit shall be a sum equal to the amount paid with respect to such  
23 vehicle when it was first proportionally registered in the  
24 registration year, reduced by those months elapsing since the

1 beginning of the registration year. The credit may be applied  
2 against subsequent additions to the fleet to be prorated or for  
3 other additional registration fees assessed. In no event shall  
4 credit be allowed for fees beyond such registration year, nor shall  
5 any such amount be subject to refund. Provided, further, that  
6 vehicles removed from a prorated fleet or sold to a nonprorated  
7 fleet for operation in Oklahoma shall be registered in Oklahoma for  
8 the remaining portion of the year.

9 G. Mileage proportions for interstate fleets not operated in  
10 this state during the preceding year will be determined by the  
11 Corporation Commission on the basis of the operations of the fleet  
12 the preceding year in other states plus the estimated operation in  
13 Oklahoma, or, if no operations were conducted the previous year, a  
14 full statement of the proposed method of operation. In the absence  
15 of a full statement of the proposed method of operation, the  
16 Corporation Commission shall require the applicant to utilize an  
17 estimated mileage chart provided by the Corporation Commission.

18 H. The records of total mileage operated in all states upon  
19 which the application is made for a period of three (3) years  
20 following the year upon which the application is based shall be  
21 preserved. Upon request of the Corporation Commission, such records  
22 shall be made available for audit as to accuracy of computation and  
23 payments. The Corporation Commission may enter into agreements with  
24

1 agencies of other states administering motor vehicle registration  
2 laws for joint audits of any such records.

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

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

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

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

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

3 It is the intention of the Legislature that the motor vehicle  
4 registration and licensing fees assessed against residents of other  
5 states operating similar vehicles in Oklahoma be comparably the same  
6 as the motor vehicle registration and licensing fees assessed  
7 against residents of Oklahoma operating a similar vehicle for a  
8 similar purpose in such other state; and that the Corporation  
9 Commission diligently monitor the motor vehicle registration and  
10 licensing fees assessed against residents of Oklahoma by other  
11 states and to provide for uniform treatment of Oklahoma residents  
12 operating vehicles in other states and for residents of other states  
13 operating vehicles in Oklahoma.

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

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

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

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

- 6 1. Is a resident of the United States;
- 7 2. Is required to register the vehicle under the laws of this  
8 state;
- 9 3. Is not authorized to drive the vehicle on the public roads  
10 of this state for lack of registration or reciprocity of this  
11 state's laws with the laws of the state in which the vehicle is  
12 registered; and

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

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

24

1 C. The temporary permit shall not be issued to any person, firm  
2 or corporation owning or possessing a commercial vehicle, truck,  
3 truck-tractor, trailer, semitrailer or motor bus, who has been  
4 apprehended for violating the registration laws of this state. If  
5 apprehended, the vehicle shall be immediately subject to such  
6 registration laws. Possession of the temporary permit shall not  
7 affect any liability or duty which the owner or operator of a  
8 vehicle might otherwise have by law. An operator of a vehicle  
9 possessing an expired, altered or undated temporary permit shall be  
10 deemed to be operating an unregistered motor vehicle and shall be  
11 subject to registration and penalties therefor as provided by law.

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

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

23 F. Any provision of this act providing for proportional  
24 registration under reciprocal agreements and the International

1 Registration Plan that relate to the promulgation of rules shall not  
2 be subject to the provisions of Section 1151 of this title. The  
3 Corporation Commission may promulgate such rules as it deems  
4 necessary to administer the provisions of this section. The  
5 Corporation Commission may prescribe an application form for the  
6 temporary permit and such other forms as it deems appropriate.

7 G. The provisions of this section shall not apply to ~~tour bus~~  
8 ~~operations issued permits pursuant to Section 1171 of this title, or~~  
9 ~~to~~ vehicles entering this state for the express purpose of  
10 transporting the resources and equipment necessary to support  
11 production activities of the motion picture, television and video  
12 film industries operating within the state. Any such vehicle  
13 properly registered under the laws of another state or not  
14 registered with this state pursuant to the provisions of the  
15 International Registration Plan and used for the above-stated  
16 purpose shall not be subject to the registration requirements as set  
17 forth in Section 1101 et seq. of this title while conducting said  
18 business.

19 SECTION 4. AMENDATORY 47 O.S. 2001, Section 1139, as  
20 last amended by Section 22, Chapter 522, O.S.L. 2004 (47 O.S. Supp.  
21 2008, Section 1139), is amended to read as follows:

22 Section 1139. A. In addition to vehicle license fees or taxes  
23 imposed upon vehicles in this state, every person operating any  
24 intercity motor bus upon, over, along or across any public highway

1 of this state shall, in order to reimburse the state for the  
2 maintenance and upkeep of public highways of the state and for the  
3 administration and enforcement of the provisions of this act, pay to  
4 the Corporation Commission the following taxes or fees:

5 A tax of one-half (1/2) mill for each mile each passenger is  
6 transported over the public highways of this state. The tax levied  
7 by this section shall apply to those motor vehicles designed,  
8 constructed and used primarily for the purpose of transportation of  
9 persons.

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

21 C. Any taxes or fees provided for in this section, if not paid  
22 when due, shall then be delinquent and bear penalty at the rate of  
23 twelve percent (12%) per annum, when such taxes have been reported  
24 by the taxpayer, and at the rate of twenty-four percent (24%) per

1 annum upon all taxes not reported within thirty (30) days after the  
2 date herein fixed for the filing of monthly reports.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 B. Before any such application may be approved by the  
9 Corporation Commission, the applicant must fully comply with the  
10 contribution requirements pursuant to Section 607.2 of this title.  
11 In addition, prior to the approval, the Corporation Commission may  
12 require the applicant to file a bond payable to the State of  
13 Oklahoma conditioned upon compliance with the provisions of Section  
14 601 et seq. of this title and the rules of the Corporation  
15 Commission in a sum of not more than Ten Thousand Dollars  
16 (\$10,000.00), the amount thereof to be fixed by an order of the  
17 Corporation Commission. During the license year, the amount of any  
18 such bond required may be increased or reduced by the Corporation  
19 Commission at its discretion, and the Corporation Commission may in  
20 its discretion, waive the filing of a bond by any person who  
21 regularly purchases sufficient gasoline or diesel fuel on which the  
22 motor fuel or diesel fuel excise tax has been paid to this state  
23 when the tax equals or exceeds the amount of the tax levied against  
24 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  
24

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  
24 transmission of temporary permits by way of a facsimile machine or

1 other device when the Corporation Commission determines that such  
2 agreement is in the best interests of the state.

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

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

52-1-324 MJM 3/6/2009 3:41:46 AM