STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 201 By: Aldridge of the Senate

and

Nelson of the House

COMMITTEE SUBSTITUTE

[payment of debts - motor vehicle violations - Oklahoma Vehicle License and Registration Act - specifying duties to be performed - effective date]

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 983, is amended to read as follows:

Section 983. A. Any defendant found guilty of an offense in any court of this state may be imprisoned for nonpayment of the fine, cost, fee, or assessment when the trial court finds after notice and hearing that the defendant is financially able but refuses or neglects to pay the fine, cost, fee, or assessment. A

sentence to pay a fine, cost, fee, or assessment may be converted into a jail sentence only after a hearing and a judicial determination, memorialized of record, that the defendant is able to satisfy the fine, cost, fee, or assessment by payment, but refuses or neglects so to do.

B. After a judicial determination that the defendant is able to pay the fine, cost, fee, or assessment in installments, the court may order the fine, cost, fee, or assessment to be paid in installments and shall set the amount and date for each installment.

C. In addition, the district court or municipal court, within one hundred twenty (120) days from the date upon which the person was originally ordered to make payment, may send notice of nonpayment of any court-ordered fine and costs ~~for~~:

1. For a moving traffic violation to the Department of Public Safety with a recommendation of suspension of driving privileges of the defendant until the total amount of any fine and costs has been paid. Upon receipt of payment of the total amount of the fine and costs for the moving traffic violation, the court shall send notice thereof to the Department, if a nonpayment notice was sent as provided for in this subsection. Notices sent to the Department shall be on forms or by a method approved by the Department; or

2. For any traffic violation, including parking violations, to the Oklahoma Tax Commission with a recommendation of suspension of renewal of registration of the motor vehicle associated with the

violation. Upon receipt of payment of the total amount of the fine and costs for the traffic violation, the court shall send notice thereof to the Oklahoma Tax Commission if a nonpayment notice was sent as provided for in this subsection. Notices sent to the Oklahoma Tax Commission shall be on forms or by a method approved by the Oklahoma Tax Commission.

The provisions of this subsection shall not be construed to allow and a court shall not request both suspension of driving privileges of the defendant and suspension of renewal of registration of the motor vehicle associated with the violation. Provided, if a court first requests suspension of driving privileges but subsequently withdraws the suspension with an order to the Department to vacate the suspension, the court may then recommend suspension of renewal of registration to the Oklahoma Tax Commission.

Whenever the court provides notice to the Oklahoma Tax Commission to suspend the renewal of registration of a motor vehicle for nonpayment of a traffic violation, the court shall also be required to provide notice to the owner of the motor vehicle that a notice has been sent to the Tax Commission recommending suspension of renewal of registration for the motor vehicle associated with the violation.

D. The Court of Criminal Appeals shall implement procedures and rules for methods of payment of fines, costs, fees, and assessments

by indigents, which procedures and rules shall be distributed to all district courts and municipal courts by the Administrative Office of the Courts.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 1106, as last amended by Section 7, Chapter 238, O.S.L. 2006 (47 O.S. Supp. 2010, Section 1106), is amended to read as follows:

Section 1106. A. 1. If the Oklahoma Tax Commission shall:

a. determine at any time that an applicant for a certificate of title of a vehicle is not entitled thereto, it may refuse to issue such certificate or to register such vehicle, or

b. receive notice of any nonpayment of fine and costs for a traffic or parking violation with a recommendation of suspension of renewal of registration for the vehicle associated with the violation from any court within this state, as provided in Section 983 of Title 22 of the Oklahoma Statutes, the Tax Commission shall suspend the renewal of registration of the named vehicle. An owner whose registration is subject to suspension pursuant to this subsection may avoid the suspension or, if the registration is already suspended, shall be eligible for vacation of the suspension, if otherwise eligible:

(1) upon making payment of the fine and costs to any motor license agent, or

(2) upon showing to the Tax Commission or any motor license agent proof of payment of the total amount of fine and costs to the court or a release from the court or the court clerk.

The Tax Commission shall adopt rules as may be deemed necessary to carry out the provisions of this subparagraph.

2. The Commission may for a similar reason, after ten (10) ~~days'~~ days of notice and a hearing, revoke the registration and the certificate of title already acquired on any outstanding certificate of title. Said notice may be served in person or by registered mail.

B. 1. The Oklahoma Tax Commission may refuse registration and issuance of a certificate of title of a commercial motor vehicle, or any transfer of title and registration of a commercial motor vehicle, to a commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.

2. The Commission may revoke the registration, certificate of title, and license plate of a commercial motor vehicle if the vehicle has been assigned to be operated by a commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.

C. The Corporation Commission may revoke, suspend or deny registration of a commercial motor vehicle licensed pursuant to the jurisdiction of the Corporation Commission and whose ability to operate has been terminated or denied by a state or federal agency.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 1140, as last amended by Section 1, Chapter 386, O.S.L. 2009 (47 O.S. Supp. 2010, Section 1140), is amended to read as follows:

Section 1140. A. The Oklahoma Tax Commission shall adopt rules prescribing minimum qualifications and requirements for locating motor license agencies and for persons applying for appointment as a motor license agent; provided, after the effective date of this act such qualifications and requirements shall apply to agents in all areas of this state. Such qualifications and requirements shall include, but not be limited to, the following:

1. Necessary job skills and experience;

2. Minimum office hours;

3. Provision for sufficient staffing, equipment, office space and parking to provide maximum efficiency and maximum convenience to the public;

4. Obtainment of a faithful performance surety bond as provided for by law;

5. A requirement that operation of a motor license agency be the primary source of income for said agent;

6. That the applicant has not been convicted of a felony and that no felony charges are pending against the applicant;

7. That a complete financial statement be submitted by the applicant on forms provided by the Tax Commission;

8. That a report of the applicant's credit history be obtained through the appropriate credit bureau; and

9. That the location specified in the application for appointment as a motor license agent not be owned by a member of the Oklahoma Legislature or any person related to a member of the Oklahoma Legislature within the ~~third~~ second degree by consanguinity or affinity and that the location not be within a three-mile radius of an existing motor license agency unless the applicant is assuming the location of an operating agency. The Tax Commission may, at its discretion, approve the relocation of an existing agency within a three-mile radius of another existing agency only if a naturally intervening geographic barrier within that radius causes the locations to be separated by not less than three (3) miles of roadway by the most direct route.

After the necessary information has been forwarded to the Tax Commission, each applicant shall be interviewed by the Tax Commission or its designees and each item of information shall be reviewed.

Any person making application to the Tax Commission for the purpose of becoming a motor license agent shall pay when submitting

the application, a nonrefundable application fee of One Hundred Dollars ($100.00). All such application fees shall be deposited in the Oklahoma Tax Commission Revolving Fund.

Upon application by a person to serve as a motor license agent, in such counties, the Tax Commission shall make a determination whether such person and such location meets the qualifications and requirements prescribed herein and, if such be the case, shall appoint such person to serve as a motor license agent.

A motor license agent, appointed pursuant to this subsection shall be permitted to operate a motor license agency at a single location and shall be prohibited from operating subagencies or branch agencies, unless such subagencies or branch agencies were established prior to June 1, 1985.

Unless otherwise specifically provided, motor license agents appointed pursuant to this subsection shall be subject to all laws relating to motor license agents and shall be subject to removal at the will of the Tax Commission.

B. Before the effective date of this act, in all counties of this state having a population of less than one hundred thirty thousand (130,000) and in municipalities having a population of less than eight thousand five hundred (8,500) located in a county having a population in excess of one hundred thirty thousand (130,000), according to the latest Federal Decennial Census, the Tax Commission shall appoint as many motor license agents as it deems necessary to

carry out the provisions of the Motor Vehicle License and Registration Act. Provided, that in counties with a population in excess of twenty-five thousand (25,000) persons, according to the latest Federal Decennial Census, having only one motor license agent serving the county, the Tax Commission shall establish at least one additional agency to serve the county. Any motor license agent appointed pursuant to this subsection before the effective date of this act may continue to serve until such agent vacates the position by reason of resignation, removal, death or otherwise.

All motor license agents shall be self-employed independent contractors and shall be under the supervision of the Tax Commission; provided, any agent authorized to issue registrations pursuant to the International Registration Plan shall also be under the supervision of the Corporation Commission, subject to rules promulgated by the Corporation Commission pursuant to the provisions of subsection E of Section 1166 of this title. Any such agent, upon being appointed, shall furnish and file with the Tax Commission a bond in such amount as may be fixed by the Tax Commission. Such agent shall be removable at the will of the Tax Commission. Such agent shall perform all duties and do such things in the administration of the laws of this state as shall be enjoined upon and required by the Tax Commission or the Corporation Commission. Provided, the Tax Commission may operate a motor license agency in any county where a vacancy occurs.

C. In the event of a vacancy existing by reason of resignation, removal, death or otherwise, in the position of any motor license agent, the Tax Commission is hereby empowered and authorized to take any and all actions it deems appropriate in order to provide for the orderly transition and for the maintenance of operations of the motor license agency including but not limited to the designation of one of its regular employees to serve as "acting agent" without bond, and to receive and expend all fees or charges authorized or provided by law and exercise the same powers and authority as a regularly appointed motor license agent. An acting agent may be authorized by the Tax Commission equally as the preceding agent to make disbursements from any balances in the preceding motor license agent's operating account and the agent's operating funds for the payment of expenses of operations and salaries and other overhead. If such funds are insufficient, the Tax Commission is authorized to expend from funds appropriated for the operation of the Tax Commission such amounts as are necessary to maintain and continue the operation of any such motor license agency until a successor agent is appointed and qualified. The Tax Commission may require a blanket fiduciary bond of the agency employees.

D. Any motor license agency operated by a motor license agent who has been charged with a felony shall be closed immediately. The State Auditor and Inspector shall immediately conduct an audit of such motor license agency and forward the report of the audit to the

Tax Commission for review. The Tax Commission shall determine whether the motor license agency shall be reopened and operated by the motor license agent or whether the agency shall be reopened and operated by the Tax Commission. The review of the audit and the Tax Commission determination shall be effected as soon as possible to prevent additional inconvenience to the public.

E. When an application for registration is made with the Tax Commission, Corporation Commission or a motor license agent, a registration fee of One Dollar and seventy-five cents ($1.75) shall be collected for each license plate or decal issued. Such fees shall be in addition to the registration fees on motor vehicles and when an application for registration is made to the motor license agent such motor license agent shall retain a fee as provided in Section 1141.1 of this title. When the fee is paid by a person making application directly with the Tax Commission or Corporation Commission, as applicable, the registration fees shall be in the same amount as provided for motor license agents and the fee provided by Section 1141.1 of this title shall be deposited in the Oklahoma Tax Commission Revolving Fund or as provided in Section 1167 of this title, as applicable. The Tax Commission shall prepare schedules of registration fees and charges for titles which shall include the fees for such agents and all fees and charges paid by a person shall be listed separately on the application and registration and totaled on the application and registration. The

motor license agents shall charge only such fees as are specifically provided for by law, and all such authorized fees shall be posted in such a manner that any person shall have notice of all fees that are imposed by law.

F. No person shall be appointed as a motor license agent unless the person has attested under oath that the person is not related by affinity or consanguinity within the third degree to:

1. Any member of the Oklahoma Legislature;

2. Any person who has served as a member of the Oklahoma Legislature within the two-year period preceding the date of appointment as motor license agent; or

3. Any employee of the Tax Commission.

G. Any motor license agent appointed under the provisions of this title shall be responsible for all costs incurred by the Tax Commission when relocating an existing motor license agency. The Tax Commission may waive payment of such costs in case of unforeseen business or emergency conditions beyond the control of the agent.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 1141.1, as last amended by Section 3, Chapter 443, O.S.L. 2009 (47 O.S. Supp. 2010, Section 1141.1), is amended to read as follows:

Section 1141.1 A. Each motor license agent shall be entitled to retain the following amounts from the taxes and fees collected by such agent to be used to fund the operation of the office of such

motor license agent subject to the provisions of Sections 1140 through 1147 of this title:

1. Beginning July 1, 2005, Two Dollars and eighty-one cents ($2.81) for each vehicle registered and for each special license plate issued pursuant to the Oklahoma Vehicle License and Registration Act. Beginning July 1, 2006, and thereafter, Three Dollars and fifty-six cents ($3.56) for each vehicle registered and for each special license plate issued pursuant to the Oklahoma Vehicle License and Registration Act;

2. One Dollar and twenty-five cents ($1.25) for each certificate of title issued for boats and motors pursuant to the Oklahoma Statutes;

3. For each certificate of registration issued for boats and motors pursuant to the Oklahoma Statutes, an amount determined pursuant to the provisions of subsection B of this section;

4. Two Dollars and twenty-five cents ($2.25) for each certificate of title issued pursuant to the Oklahoma Vehicle License and Registration Act;

5. Beginning October 1, 2000, three percent (3%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. Beginning July 1, 2001, each motor license agent shall be entitled to retain three and one hundred twenty-five one-thousandths percent (3.125%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes.

Beginning July 1, 2002, and for all subsequent years, each motor license agent shall be entitled to retain three and twenty-five one-hundredths percent (3.25%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. However, beginning July 1, 2003, the Legislature shall annually review the percentage to be retained by the motor license agents pursuant to this paragraph to determine whether such percentage should be adjusted;

6. Four percent (4%) of the excise tax collected on the transfer of boats and motors pursuant to the Oklahoma Statutes;

7. Two Dollars ($2.00) for each driver license, endorsement, identification license, or renewal or duplicate issued pursuant to Section 6-101 et seq. of this title;

8. Two Dollars ($2.00) for the recording of security interests as provided in Section 1110 of this title;

9. Two Dollars ($2.00) for each inspection conducted pursuant to subsection L of Section 1105 of this title;

10. Three Dollars ($3.00) for each inspection conducted pursuant to subsection M of Section 1105 of this title;

11. One Dollar ($1.00) for each certificate of ownership filed pursuant to subsection Q of Section 1105 of this title;

12. One Dollar ($1.00) for each temporary permit issued pursuant to Section 1124 of this title;

13. One Dollar and fifty cents ($1.50) for processing each proof of financial responsibility, driver license information, insurance verification information, and other additional information as provided in Section 7-602 of this title;

14. The mailing fees and registration fees provided in Sections 1131 and 1140 of this title;

15. The notary fee provided in Section 1143 of this title;

16. Three Dollars ($3.00) for each lien entry form completed and recorded on a certificate of title pursuant to subsection G of Section 1105 of this title;

17. Seven Dollars ($7.00) for each notice of transfer as provided by subsection B of Section 1107.4 of this title;

18. Seven Dollars ($7.00) for each certificate of title or each certificate of registration issued for repossessed vehicles pursuant to Section 1126 of this title;

19. Any amount specifically authorized by law to be retained by the motor license agent for the furnishing of a summary of a traffic record; ~~and~~

20. <u>Each motor license agent shall also be entitled to collect Twenty-five Dollars ($25.00), which shall be assessed as an additional fee, for collection of any fine and costs for a traffic or parking violation for which suspension of renewal of registration for the vehicle associated with the violation has occurred pursuant</u>

to subparagraph b of paragraph 1 of subsection A of Section 1106 of this title and subsection C of Section 1143.2 of this title; and

21. Beginning July 1, 2009, each motor license agent shall also be entitled to a portion of the penalties for delinquent registration or payment of excise tax as provided for in subsection C of Section 1115, subsection F of Section 1132 and subsection C of Section 1151 of this title and of subsection A of Section 2103 of Title 68 of the Oklahoma Statutes.

The balance of the funds collected shall be remitted to the Oklahoma Tax Commission as provided in Section 1142 of this title to be apportioned pursuant to Section 1104 of this title.

B. For each certificate of registration issued for boats and motors, each motor license agent shall be entitled to retain the greater of One Dollar and twenty-five cents ($1.25) or an amount to be determined by the Tax Commission according to the provisions of this subsection. At the end of fiscal year 1997 and each fiscal year thereafter, the Tax Commission shall compute the average amount of registration fees for all boats and motors registered in this state during the fiscal year and shall multiply the result by six and twenty-two one-hundredths percent (6.22%). The resulting product shall be the amount which may be retained by each motor license agent for each certificate of registration for boats and motors issued during the following calendar year.

SECTION 5. AMENDATORY Section 11, Chapter 534, O.S.L. 2004 (47 O.S. Supp. 2010, Section 1143.2), is amended to read as follows:

Section 1143.2 A. In addition to the duties and functions authorized to be performed by motor license agents pursuant to the provisions of the Oklahoma Vehicle License and Registration Act, the Oklahoma Tax Commission is authorized to utilize motor license agents to perform the following duties:

1. Process, receive, and issue permits, licenses, and registration relating to any tax which is payable to, collectible by, or administered by the Tax Commission;

2. Accept documents, reports, or returns required to be filed with the Tax Commission and accept payment of remittances required to be made to the Tax Commission as provided by the tax laws of this state;

3. Provide information regarding the status of any permit or license issued by the Tax Commission, or the franchise tax status of any corporation, upon written request and subject to the provisions of Section 205 of Title 68 of the Oklahoma Statutes and any other provision of law relating to the confidentiality of records or information; and

4. Perform any other duties specified by the Tax Commission relating to the enforcement or administration of any state tax law.

B. Any permit, license, or registration issued by a motor license agent, and any document, report, return, or remittance accepted by a motor license agent, pursuant to the provisions of subsection A of this section, shall be deemed on the date of such issuance or acceptance to have been issued or accepted by the Tax Commission.

C. In addition to the duties and functions authorized to be performed by motor license agents pursuant to the provisions of the Oklahoma Vehicle License and Registration Act, the Oklahoma Tax Commission is authorized to utilize motor license agents to collect any outstanding fine or costs for a traffic or parking violation for which the Oklahoma Tax Commission has received notice as provided in subparagraph b of paragraph 1 of subsection A of Section 1106 of this title. Upon acceptance of remittance for an outstanding fine and costs for a traffic or parking violation, the motor license agent shall forward such remittance to the appropriate court. The Tax Commission shall adopt rules as may be deemed necessary to carry out the provisions of this subsection.

D. In addition to the amounts authorized to be retained by motor license agents pursuant to the provisions of Section 1141.1 of ~~Title 47 of the Oklahoma Statutes~~ this title, motor license agents shall be entitled to charge and receive fees for duties performed pursuant to the provisions of subsections A and C of this section as provided by law.

SECTION 6. This act shall become effective January 1, 2012.

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