SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

_____

No. _____

_____
(Date)

Mr./Madame President:

I move to amend House Bill No. 2647, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

_____

Senator Jolley

Jolley-MD-FS-Req#3385
4/11/2012 2:43 PM

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

FLOOR SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2647

By: Brumbaugh, Ownbey and Ritze of the House

and

Jolley of the Senate

FLOOR SUBSTITUTE

[state vehicles - automobiles owned by the state - vehicles leased - exception - Trip Optimizer system - effective date]

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 151, is amended to read as follows:

Section 151. A. A state agency that owns or leases vehicles shall affix the words "State of Oklahoma" and the name of the department or institution that owns or leases the vehicle in conspicuous letters.

B. 1. In lieu of the provisions of subsection A of this section, Department of Public Safety vehicles used regularly as patrol units shall be distinctively painted black and white and shall bear the wording "Oklahoma Highway Patrol" on each side of the

vehicle in letters of such size as to be easily distinguishable, it being the purpose and intention of the Legislature that ~~said~~ the patrol units shall be marked in the future in the same manner as those now in use.

2. The Commissioner of Public Safety may designate colors and markings, in lieu of those authorized by the provisions of this section, for patrol units used for patrol purposes and for selective traffic law enforcement.

C. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control vehicles for use in undercover investigations and Oklahoma State Bureau of Investigation vehicles shall not be subject to the provisions of this section.

D. Department of Corrections vehicles designated for use by probation and parole operations and other administrative operations, as approved by the Director of the Department of Corrections, shall not be subject to the provisions of this section.

E. Vehicles owned or leased by state agencies that conduct regulatory examination and enforcement activities and whose reports from such examinations are to be kept confidential and not subject to public inspection under the Oklahoma Open Records Act shall not be subject to the provisions of this section.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 153, is amended to read as follows:

Section 153. It shall be unlawful for any person to drive any state-owned or -leased automobile at any time and for any purpose, on any street or highway within this state, unless the provisions of Section 151 of this title have been strictly complied with, provided, however, the Commissioner of the Department of Public Safety is hereby authorized to set aside automobiles for use by the Department so that the same may be available to the Department without identifying marks thereon. These vehicles shall not be used for traffic enforcement on a routine basis.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 156, is amended to read as follows:

Section 156. A. Unless otherwise provided for by law, no state board, commission, department, institution, official, or employee, except the following, shall purchase any passenger automobile or bus with public funds:

1. The Department of Public Safety;

2. The Department of Human Services;

3. The State Department of Rehabilitation Services;

4. The Department of Wildlife Conservation;

5. The Department of Corrections;

6. The State Department of Education;

7. The Oklahoma School of Science and Mathematics;

8. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

9. The Oklahoma State Bureau of Investigation;

10. The Transportation Commission;

11. The Oklahoma Department of Agriculture, Food, and Forestry;

12. The State Department of Health;

13. The Department of Mental Health and Substance Abuse Services;

14. The J.D. McCarty Center for Children with Developmental Disabilities;

15. The Military Department of the State of Oklahoma;

16. The Oklahoma Tourism and Recreation Department;

17. The Oklahoma Conservation Commission;

18. The Oklahoma Water Resources Board;

19. The Department of Mines;

20. The Office of Juvenile Affairs;

21. The Oklahoma Department of ~~Veteran~~ Veterans Affairs;

22. The Oklahoma Supreme Court;

23. The District Attorneys Council and Oklahoma district attorneys, provided adequate funding exists; and

24. The Oklahoma Boll Weevil Eradication Organization.

B. 1. The Oklahoma School for the Deaf at Sulphur, the Oklahoma School for the Blind at Muskogee, and any state institution of higher education may purchase, own, or keep if now owned, or acquire by lease or gift, and use and maintain such station wagons,

automobiles, trucks, or buses as are reasonably necessary for the implementation of the educational programs of said institutions.

2. No bus operated, owned, or used by such educational institutions shall be permitted to carry any person other than students, faculty members, employees, or volunteers of such institutions. The provisions of this section shall not be construed to prohibit:

a. the operation of intracampus buses or buses routed directly between portions of the campus of any institution not adjacent to each other, nor to prohibit the collection of fares from such students, faculty members, or employees of such institutions, sufficient in amount to cover the reasonable cost of such transportation, or

b. the Oklahoma School for the Blind or the Oklahoma School for the Deaf from entering into agreements with local public school districts pursuant to the Interlocal Cooperation Act for the mutual use of the schools' and the districts' vehicles. Such use may include, but is not limited to, the transportation of students from local school districts with students from the Oklahoma School for the Blind or the Oklahoma School for the Deaf in vehicles owned by the Oklahoma

School for the Blind or the Oklahoma School for the Deaf when traveling to school-related activities.

C. The J.D. McCarty Center for Children with Developmental Disabilities, the Oklahoma Department of Libraries, the Oklahoma Department of Veterans Affairs, and the Oklahoma Veterans Centers may own and maintain such passenger vehicles as those institutions have acquired prior to May 1, 1981.

D. The use of station wagons, automobiles, and buses, other than as provided for in this section, shall be permitted only upon written request for such use by heads of departments of the institution, approved in writing by the president of ~~said~~ the institution or by some administrative official of ~~said~~ the institution authorized by the president to grant ~~said~~ the approval. Such use shall be permitted only for official institutional business or activities connected therewith. Such use shall be subject to the provisions of Section 156.1 of this title forbidding personal use of such vehicles, and to the penalties therein declared.

E. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by fine or imprisonment, or both, as provided for in Section 156.1 of this title.

F. For the purpose of this section and Section 156.3 of this title, a station wagon is classified as a passenger automobile and may not be purchased solely for the use of transporting property.

Such vehicles shall include, but not be limited to, all vehicles which have no separate luggage compartment or trunk but which do not have open beds, whether the same are called station wagons, vans, suburbans, town and country, blazers, or any other names. All state boards, commissions, departments, and institutions may own and maintain station wagons purchased solely for the purpose of transporting property if acquired prior to July 1, 1985.

G. The provisions of this section ~~and Section 156.1 of this title~~ shall not apply to public officials who are statewide elected commissioners.

H. The provisions of this section shall not be construed to permit the purchase of any motor vehicle of ten thousand (10,000) pounds or less gross vehicle weight.

SECTION 4. AMENDATORY 47 O.S. 2011, Section 156.1, is amended to read as follows:

Section 156.1 A. It shall be unlawful for any state official, officer, or employee, except any essential employees approved by the Governor and those officers or employees authorized in subsection B of this section, to ride to or from the place of residence of the employee in a state-owned or -leased automobile, truck, or pickup, except in the performance of the official duty of the employee, or to use or permit the use of any such automobile, truck, ambulance, or pickup for other personal or private purposes. Any person convicted of violating the provisions of this section shall be

guilty of a misdemeanor and shall be punished by a fine of not more than One Hundred Dollars ($100.00) or by imprisonment in the county jail for a period to not exceed thirty (30) days, or by both ~~said~~ fine and imprisonment, and in addition thereto, shall be discharged from state employment.

B. 1. Any state employee, other than the individuals provided for in paragraph 2 of this subsection and any employee of the Department of Public Safety who is an employee in the Driver License Examining Division or the Driver Compliance Division or a wrecker inspector or auditor of the Wrecker Services Division as provided for in paragraph 3 of this subsection, who receives emergency telephone calls regularly at the residence of the employee when the employee is not on duty and is regularly called upon to use a vehicle after normal work hours in response to such emergency calls, may be permitted to use a vehicle belonging to the State of Oklahoma to provide transportation between the residence of the employee and the assigned place of employment, provided such distance does not exceed seventy-five (75) miles in any round trip or is within the county where the assigned place of employment is located. Provided further, an employee may be permitted to use a state-owned <u>or -leased</u> vehicle to provide temporary transportation between a specific work location other than the assigned place of employment and the residence of the employee, if such use shall result in a monetary saving to the agency, and such authorization shall not be

subject to the distance or area restrictions provided for in this paragraph. Authorization for temporary use of a state-owned or -leased vehicle for a specific project shall be in writing stating the justification for this use and the saving expected to result. Such authorization shall be valid for not to exceed sixty (60) days. Any state entity other than law enforcement that avails itself of this provision shall keep a monthly record of all participating employees, the number of emergency calls received, and the number of times that a state vehicle was used in the performance of such emergency calls.

2. Any employee of the Department of Public Safety, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma State Bureau of Investigation, Alcoholic Beverage Laws Enforcement Commission, Oklahoma Horse Racing Commission, Oklahoma Department of Agriculture, Food, and Forestry, Office of the Inspector General within the Department of Human Services or Office of the State Fire Marshal, who is a law enforcement officer or criminalist, Public Information officer, Special Investigator or Assistant Director of the Oklahoma State Bureau of Investigation, CLEET-certified Investigator for a state board or any employee of a district attorney who is a law enforcement officer, may be permitted to use a state-owned or -leased vehicle to provide transportation between the residence of the employee and the assigned place of employment and between the residence and any location other than the assigned place

of employment to which the employee travels in the performance of the official duty of the employee.

3. Any employee of the Department of Public Safety who is an employee in the Driver License Examining Division, an employee of the Driver Compliance Division, a wrecker inspector or auditor of the Wrecker Services Division, or a noncommissioned pilot may be permitted, as determined by the Commissioner, to use a state-owned or -leased vehicle to provide transportation between the residence of the employee and the assigned place of employment and between the residence and any location other than the assigned place of employment to which the employee travels in the performance of the official duty of the employee.

4. The Director, department heads and other essential employees of the Department of Wildlife Conservation, as authorized by the Wildlife Conservation Commission, may be permitted to use a state-owned or -leased vehicle to provide transportation between the residence of the employee and the assigned place of employment and between the residence and any location other than the assigned place of employment to which the employee travels in the performance of the official duty of the employee.

C. The principal administrator of the state agency with which the employee is employed shall so designate the status of the employee in writing or provide a copy of the temporary authorization to the Governor, the President Pro Tempore of the Senate, and the

Speaker of the House of Representatives. Such employee status report shall also be provided to the State Fleet Manager of the Division of Fleet Management if the motor vehicle for emergency use is provided by ~~said~~ the Division.

SECTION 5. AMENDATORY 68 O.S. 2011, Section 2110, is amended to read as follows:

Section 2110. A. There is hereby levied a rental tax of six percent (6%) on the gross receipts of all motor vehicle rental agreements as provided in this section. This tax shall be levied on any rental agreement of ninety (90) days or less duration on any motor vehicle that is rented to a person by a business engaged in renting motor vehicles without a driver in Oklahoma, irrespective of the state in which the vehicle is registered. This rental tax shall not apply to the following:

1. Any lease agreements;

2. Any truck or truck-tractor registered pursuant to the provisions of Section 1120 or Section 1133 of Title 47 of the Oklahoma Statutes having a laden weight or a combined laden weight of eight thousand (8,000) pounds or more; ~~or~~

3. Any trailer or semitrailer registered pursuant to the provisions of Section 1133 of Title 47 of the Oklahoma Statutes. For purposes of this section, "vehicle" and "person" shall have the same meanings as defined in Section 2101 of this title; or

4. Any rental agreement that is not subject to sales tax under Article 13 of this title.

B. The rental tax specified in subsection A of this section shall be apportioned in the manner as provided in Section 2102 of this title.

C. A deduction from gross receipts for bad debts shall be allowed for the rental tax specified in subsection A of this section. For purposes of this section, "bad debts" shall have the same meaning as defined in Section 1366 of this title.

D. The tax hereby levied shall be collected at the time of the payment of the rental agreement and shall be due and payable to the Oklahoma Tax Commission by the business engaged in renting these vehicles on the twentieth day of each month following the month in which payments for rental agreements subject to tax are made. The Tax Commission shall implement such rules and regulations and devise such forms as it deems necessary for the orderly collection of this tax and the excise tax and penalty provided for in ~~subsection~~ paragraph 9 of Section 2105 of this title.

SECTION 6. AMENDATORY 74 O.S. 2011, Section 78, is amended to read as follows:

Section 78. A. There is hereby created and established within the Department of Central Services, the Fleet Management Division. The Division shall provide oversight of and advice to state agencies that own, operate and utilize motor vehicles, except for the

Department of Public Safety~~, the Department of Transportation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,~~ and The Oklahoma State System of Higher Education.

B. The Director of Central Services shall:

1. Appoint and fix duties and compensation for a Fleet Manager who shall serve as the administrative head of the division;

2. Hire personnel as necessary to provide fleet services;

3. Acquire facilities to maintain vehicles;

4. Construct, install, acquire, operate and provide alternative fueling infrastructure for use by state agencies and political subdivisions of the state or for leasing and transferring to political subdivisions;

5. Promulgate rules for efficient and economical operations to provide fleet services; and

6. Report to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate those agencies that fail to comply with the provisions of law and the rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance.

C. The rules shall include provisions to:

1. Establish uniform written vehicle acquisition, leasing, maintenance, repairs, and disposal standards for use by all state agencies to justify actual need for vehicles;

2. Establish standards for routine vehicle inspection and maintenance;

3. Provide standards and forms for recordkeeping of fleet operation, maintenance, and repair costs for mandatory use by all state agencies to report the data to the Fleet Management Division on a monthly basis;

4. Provide standards and utilize methods for disposal of vehicles pursuant to the Oklahoma Surplus Property Act and any other applicable state laws;

5. Establish mandatory maintenance contracts throughout the state for all agencies to access for vehicle repairs and service at discounted rates and parts;

6. Require all agencies with in-house repair and service facilities to assign a value to the preventive maintenance services, track those services with a dollar value, and report costs to the Fleet Manager for the prior month no later than the twentieth day following the close of each month;

7. Promulgate rules requiring all state-owned motor vehicles to be marked in a uniform, highly visible manner, except for certain vehicles driven by law enforcement agencies or other agencies requiring confidentiality;

8. Require agencies to produce and maintain written justification for any vehicle that travels fewer than twelve

thousand (12,000) miles annually and report to the Fleet Manager such information by October 1 of each year; and

9. Address any other matter or practice which relates to the responsibilities of the Director of Central Services.

D. The Fleet Manager shall:

1. Develop specifications for contracts for vehicle maintenance for state vehicles not serviced or maintained by state agencies;

2. Conduct on-site inspections to verify state agency or supplier compliance with Division standards for inspections, maintenance and recordkeeping;

3. Assess state agency needs for vehicles and types of vehicles;

4. Assign, transfer or lease vehicles to a state agency to meet the needs of the state agency;

5. Unless otherwise provided by law, determine whether a state agency may use or operate a vehicle without state identifying markings, bearing a license plate used by a privately owned vehicle to perform the duties of the state agency without hindrance;

6. Report to the Director of Central Services occurrences of agencies failing to comply with the provisions of law and the rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance;

7. Offer guidelines to agencies to assist in determining the most cost-effective and reasonable modes of travel for single trips

from the following options: state vehicle, private rental, or mileage reimbursement; and

8. Provide, upon the request of the Governor, the President Pro Tempore of the Senate or the Speaker of the House of Representatives, reports from data the Fleet Manager collects.

E. The Director of Central Services may enter into agreements with any political subdivision of this state for the purpose of providing fleet services established by the Fleet Management Division pursuant to this section and rules promulgated pursuant to this section.

F. The Director of Central Services, through the Fleet Management Division, may enter into partnership agreements with political subdivisions and private entities for the purposes of applying for, participating in, and administering federal grant funds. The partnership agreements and activities authorized in this subsection are hereby declared to be a public purpose.

G. The Department may offer public access to alternative fueling infrastructure owned and operated by the Department in areas of the state in which access to an alternative fueling infrastructure is not readily available to the public. The Department shall cease allowing public access to an alternative fueling infrastructure operated by the Department if a privately owned alternative fueling infrastructure locates within a five-mile radius of the infrastructure operated by the Department.

H. When used in relation to the Fleet Management Division:

1. "Alternative fueling infrastructure" shall mean a fill station or charge station used to deliver or provide alternative fuels as defined in Section 130.2 of this title; and

2. "Alternative fuel vehicle" shall mean a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways which is propelled by an alternative fuel as defined in Section 130.2 of this title.

SECTION 7. AMENDATORY 74 O.S. 2011, Section 78a, is amended to read as follows:

Section 78a. A. State agencies with authority to own motor vehicles shall submit a requisition to the ~~Director of Central Services~~ State Fleet Manager prior to acquisition of a motor vehicle. The requisition shall state the type of vehicle, the intended purpose of the vehicle, a statement that the agency has actual need for the vehicle, the supplier of the vehicle, that the state agency has sufficient funds to acquire and maintain the vehicle and cite the statutory authority of the state agency to acquire a vehicle. All acquisitions of any motor vehicle of ten thousand (10,000) pounds or less gross vehicle weight shall require approval by the State Fleet Manager.

B. The ~~Director of Central Services~~ State Fleet Manager shall review the requisition and approve or deny the request of the state agency within fifteen (15) days of receipt by the ~~Director of~~

~~Central Services~~ State Fleet Manager. The Director of State Finance shall not approve a purchase order or claim for a motor vehicle unless the acquisition of the motor vehicle was approved by the ~~Director of Central Services~~ State Fleet Manager.

C. The provisions of subsections A and B of this section shall not apply to the Department of Public Safety ~~or the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~.

D. ~~The provisions of subsections A and B of this section shall not apply to CompSource Oklahoma if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 1 and 2 of this act~~ State agencies that own motor vehicles shall submit an updated inventory report to the State Fleet Manager after the acquisition of a motor vehicle.

SECTION 8. AMENDATORY 74 O.S. 2011, Section 85.45*l*, is amended to read as follows:

Section 85.45*l* A. Each state agency, board, commission or other entity organized within the executive department of state government shall use the Trip Optimizer system of the Department of Central Services in computing the optimum method and cost for travel by state employees using a motor vehicle where the travel will exceed one hundred (100) miles per day and the employee is not driving a state-owned or -leased dedicated vehicle. For purposes of this section, "dedicated vehicle" means a vehicle that has been assigned to the employee.

B. The provisions of this section shall be used to determine the most cost-effective method of travel by motor vehicles, whether such vehicles are owned by the agency, leased by the agency or by the employee, and shall be applicable for purposes of determining the maximum authorized amount of any travel reimbursement for employees of such agencies related to vehicle usage.

C. A nonappropriated state agency, that employs persons who use personal vehicles as part of their regular duties and who are reimbursed for travel expenses by the agency shall not be required to utilize the Trip Optimizer system with regard to the travel expenses of such employees. As used in this section, "nonappropriated state agency" means an entity within the executive branch of government that does not receive any of its funding through the annual legislative appropriations process.

D. The maximum authorized amount of travel reimbursement related to vehicle usage shall be the lowest cost option as determined by the Trip Optimizer system. All travel claims submitted for reimbursement shall include the results of the Trip Optimizer system indicating the lowest cost option for travel by the state employee.

E. In providing a calculation of rates, the Trip Optimizer system shall account for the distance that an employee must travel to pick up a rental or state fleet vehicle. For an employee that has a starting location that requires travel of more than thirty

(30) miles one-way in order to pick up or return a rental or state fleet vehicle from that starting point, the Trip Optimizer system shall return a value that specifies the employee as being exempt and direct that reimbursement is the best option.

F. In providing a calculation of rates, the Trip Optimizer system shall account for the long-term rate discounts offered through the state's purchasing contract for vehicle rentals.

SECTION 9. This act shall become effective November 1, 2012.

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