ENGROSSED SENATE
BILL NO. 792 By: Johnson (Rob) of the Senate

and

Jackson of the House

[Used Motor Vehicle and Parts Commission - Oklahoma Crusher Act - injunctive relief - codification - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Crusher Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Crusher Act:

1. "Commission" means the Oklahoma Used Motor Vehicle and Parts Commission;

2. "Crusher" means a person engaged in the business of crushing and/or shredding used motor vehicles, trailers, or nonmotorized recreational vehicles; and

3. "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity however organized.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

No person shall engage in business as a crusher without first obtaining a license from the Oklahoma Used Motor Vehicle and Parts Commission specifically authorizing engagement in such business.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. To be eligible for a crusher license, an applicant shall:

1. Be of good moral character;

2. Have net assets of at least Twenty-five Thousand Dollars ($25,000.00); and

3. Show that the crusher operation will be operated lawfully and fairly within the purpose of the Oklahoma Crusher Act.

B. The Commission shall find ineligible an applicant who:

1. Has a felony conviction which relates to the duties and responsibilities of the occupation of crusher, or has any felony

conviction less than five (5) years before the date of application for a license;

2. Is unfit to conduct the business of a crusher as determined by the Commission, taking into consideration the business integrity, financial standing, moral character, and/or ability to conduct the business of a crusher of the applicant; and

3. Fails to provide any information requested by the Commission in any initial or renewal application for license.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Applications for a crusher license shall be under oath and shall state the full name and place of residence of the applicant. If the applicant has more than one member, the full name and residence of each member shall be stated. The application shall give the location of the business headquarters, and shall contain such relevant information as the Commission shall require.

B. Each applicant for a crusher license at the time of filing the application shall file with the Commission a bond in the amount of Twenty-five Thousand Dollars ($25,000.00) for each license with a surety company qualified to do business in this state. The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of the Oklahoma

Crusher Act or any of the rules made by the Commission hereunder in the conduct of the business for which the applicant is licensed and will pay to the state and to any person or persons any and all amounts of money that may become due or owing to the state or to such person or persons from the obligor under and by virtue of the provisions of the Oklahoma Crusher Act during the time such bond is in effect. The bond shall run to the benefit of the state and of any person or persons who may have cause of action against the obligor of the bond under the provisions of the Oklahoma Crusher Act up to the maximum amount of the bond.

C. Each licensee shall maintain on file with the Commission a written appointment of a resident of this state as his or her agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this state. In case of noncompliance, such service may be made on the Commission.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of an application and bond and payment of the annual fee and an investigation fee, the Commission shall conduct an investigation. If the Commission finds that the financial responsibility, experience, character and general fitness of the applicant are such as to warrant belief that the business

will be operated lawfully and fairly, within the purposes of this act, and the applicant meets the eligibility requirements of this act and the rules of the Commission, the Commission shall grant the application and issue to the applicant a license which will evidence the applicant's authority to do business pursuant to the Oklahoma Crusher Act.

B. If the Commission does not find facts sufficient to warrant issuance of a license, the Commission may deny the application. In the event of denial of the application, the investigation fee shall be retained by the Commission, but the annual license fee shall be returned to the applicant.

C. The Commission shall prescribe by rule a fee for each initial application, investigation fee, renewal application, late fee for renewals not received by June 1, and fee for each license change, duplicate license or returned check.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Each license shall state the name of the licensee and the address at which the business office is located and where the records of the business are to be permanently maintained. The license shall be displayed at the business location. The license shall not be transferable.

B. Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee, on or before June 1, shall pay the Commission an annual fee for the succeeding one year licensing period, July 1 through June 30. If the annual fee remains unpaid by June 15, the license shall thereupon expire on June 30. If the renewal application is received after June 15, a late fee shall be charged.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Prior to the purchase of a used motor vehicle, trailer, or nonmotorized recreational vehicle, the crusher shall require the following proof of ownership from the person selling the used motor vehicle, trailer, or nonmotorized recreational vehicle:

1. A certificate of title in the name of the seller;

2. A notarized power of attorney from the individual on the certificate of title authorizing the seller to dispose of the vehicle on behalf of the owner;

3. A bill of sale from the owner as identified by the certificate of title to the person presenting the vehicle to be crushed or shredded; and

4. A statement of ownership from the seller stating that the vehicle to be crushed was purchased from the lawful owner, accompanied by a bill of sale from the lawful owner, and a statement

that the vehicle is inoperable or incapable of operation or use on the highway and has no resale value except as scrap.

B. A crusher shall not:

1. Accept any vehicle to be crushed or shredded from a person under the age of eighteen (18) years;

2. Buy a vehicle from a person unable to supply verification of identity by photo I.D. by either a state-issued identification card, driver's license or federal government-issued identification card or by readable fingerprint of right or left index finger on the purchase document to be retained in the crusher's records; or

3. Crush or shred any vehicle purchased until making the report and waiting the time period required herein.

C. A crusher shall:

1. Make available a copy or report within three days (3) days of any purchase of a vehicle to the local law enforcement agency of the municipality or other political subdivision in which the crusher is located or temporarily operating in. Such copy or report shall be shown upon request to the Commission's representative or to any authorized peace officer;

2. Hold the vehicle in the state and condition in which it was purchased for a period of three (3) days after submitting the report required in paragraph 1 of this subsection;

3. Include in the report:

a. the name, address and telephone number of the crusher whereby the crusher may be immediately contacted,

b. the name, address, race, sex, weight, height, date of birth and identifying number of the seller as verified by either a state-issued identification card, driver's license or federal government-issued identification card or by readable fingerprint of right or left index finger on the purchase document to be retained in the crusher's record, and

c. a description of the vehicle, the manufacturer of the vehicle, the vehicle identification numbers of the vehicle, and the date and time of the purchase of the vehicle; and

4. Submit a report monthly to the National Motor Vehicle Title Information System (NMVTIS) of the disposition of each vehicle crushed.

D. A licensed automotive dismantler engaging the services of a crusher shall not be required to produce proof of ownership to the crusher before selling to the crusher vehicles or other property purchased by the automotive dismantler in the ordinary course of business.

E. A crusher shall not have the right of reassignment of a certificate of title.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Rule Making Power. The Used Motor Vehicle and Parts Commission may adopt, amend and repeal such rules as are necessary for the enforcement of the provisions of the Oklahoma Crusher Act and consistent with its provisions.

B. Criminal Penalties.

1. Any person who engages in the business of operating a crusher without first obtaining the license prescribed in the Oklahoma Crusher Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not in excess of One Thousand Dollars ($1,000.00), by confinement in the county jail for not more than six (6) months, or by both.

2. Any person who engages in the business of operating a crusher without first obtaining the license prescribed in the Oklahoma Crusher Act and who receives, obtains or possesses any vehicle or other property which he knows to be stolen, shall be guilty of a felony offense of receiving, obtaining or possessing stolen property and, upon conviction, shall be subject to the penalties which may be imposed for such crime.

3. Any person selling a vehicle or other property to a crusher who uses false or altered identification or makes a false declaration of ownership as related to the provisions of the

Oklahoma Crusher Act shall be guilty of a felony, and upon conviction shall be punished by imprisonment in the custody of the Department of Corrections for a term not more than five (5) years, or in the county jail for a term not more than one (1) year, or by a fine not exceeding One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

4. Any person who fails to repay a crusher the full amount received from the sale of a vehicle or other property after being officially notified by a peace officer or the Commission that the vehicle or other property the person sold to the crusher was stolen shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term not to exceed six (6) months, or a fine not to exceed One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

C. Injunctive Action. The Commission may institute, in the name of the State of Oklahoma ex rel. Oklahoma Used Motor Vehicle and Parts Commission, any necessary action to enjoin any person, firm, or corporation from engaging in the business of a crusher without a license, or for any violations of this act. An injunction shall issue without the requirement of a bond of any kind from the state. The venue of any action authorized by this section shall be in the county wherein the business activity complained of is conducted.

SECTION 10. This act shall become effective November 1, 2013.

Passed the Senate the 6th day of March, 2013.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2013.

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Presiding Officer of the House of Representatives