STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

SENATE BILL 676 By: Allen

AS INTRODUCED

An Act relating to motor vehicles; transferring certain divisions and sections of Corporation Commission to the Department of Public Safety; transferring associated powers, duties, responsibilities, documents, employees, property, pending matters, funds and authority; providing for allocation of certain funds; authorizing Director of State Finance to transfer certain funds; providing that certain funds not be subject to budgetary limitations; providing for certain transitional period and requirements related thereto; requiring Department of Public Safety and Corporation Commission to enter into certain contract and specifying certain requirements related thereto; providing procedures and requirements for transfer of certain employees; requiring coordination with Office of Personnel Management; providing that certain rules be deemed promulgated by Department of Public Safety; amending 47 O.S. 2011, Sections 162.1, 163, 169, 177.2, 177.3, 180, 180a, 180b, 180c, 180d, 180e, 180f, 180g, 180h, 180k, 180l and 180m, which relate to regulation of motor carriers; transferring certain duties from Corporation Commission to Department of Public Safety; repealing 47 O.S. 2011, Sections 162, 165, 166.5, 169.5, 170, 170.1, 170.2, 171, 172 and 172.1, which relate to regulation of motor carriers; providing for codification; providing an effective date; and declaring an emergency.

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 160 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2013, all powers, duties and responsibilities exercised by the Motor Vehicle Enforcement Section shall be transferred from the Oklahoma Corporation Commission to the Department of Public Safety. Beginning July 1, 2013, and effective July 1, 2014, all powers, duties and responsibilities exercised by the International Registration Plan Section and the International Fuel Tax Agreement Section shall be transferred from the Corporation Commission to the Department of Public Safety. All records, property and matters pending of the Sections shall be transferred to the Department of Public Safety. Funds sufficient to administer the powers, duties and responsibilities exercised by these Sections shall be appropriated or allocated to the Department of Public Safety for fiscal year 2013 as provided herein. Such funds appropriated or allocated to the Department of Public Safety shall not be subject to budgetary limitations. The Director of State Finance is hereby authorized to transfer such funds as may be necessary to effect such allocations.

B. The period of July 1, 2013, through June 30, 2014, shall be a transitional period in which the Department of Public Safety shall gradually assume complete administration and management over the powers, duties, responsibilities and staff currently carrying out

the administration of the International Registration Plan Section and the International Fuel Tax Agreement Section. During this transition period, the employees assigned to the International Registration Plan Section and the International Fuel Tax Agreement Section shall continue to be employees of the Corporation Commission unless otherwise agreed to by the Corporation Commission and the Department of Public Safety. Effective July 1, 2015, the International Registration Plan Section and the International Fuel Tax Agreement Section shall be administered solely by the Department of Public Safety. For the period of July 1, 2014, through June 30, 2015, the Department of Public Safety and the Corporation Commission shall enter into a contract whereby funds shall be paid to the Corporation Commission by the Department of Public Safety in exchange for the Corporation Commission's agreement to continue to operate the International Registration Plan Section and the International Fuel Tax Agreement Section.

C. The powers, duties and responsibilities exercised by the Motor Vehicle Enforcement Section of the Corporation Commission shall be fully transferred to the Department of Public Safety on July 1, 2014.

D. All employees of the Corporation Commission whose duties are transferred under this act shall be transferred to the Department of Public Safety. Personnel transferred pursuant to the provisions of this section shall not be required to accept a lesser salary than

presently received; provided, the provisions of this section shall not operate to prohibit the Department of Public Safety or the Corporation Commission from imposing furloughs or reductions-in-force with respect to such personnel as allowed by law. Personnel transferred shall be placed within the classification level in which they meet qualifications without an entrance exam. All such persons shall retain seniority, leave, sick and annual time earned and any retirement benefits which have accrued during their tenure with the Corporation Commission. The transfer of personnel among the agencies shall be coordinated with the Office of Personnel Management.

E. Effective July 1, 2014, any administrative rules promulgated by the Corporation Commission related to the administration of the International Registration Plan authorized by Section 1120 of Title 47 of the Oklahoma Statutes, the International Fuel Tax Agreement authorized by Section 607 of Title 68 of the Oklahoma Statutes, or the enforcement of Section 1115.1 of Title 47 of the Oklahoma Statutes shall be transferred to and become a part of the administrative rules of the Department of Public Safety. The Office of Administrative Rules in the Secretary of State's office shall provide adequate notice in the Oklahoma Register of the transfer of rules, and shall place the transferred rules under the Administrative Code Section of the Department of Public Safety. From and after July 1, 2014, any amendment, repeal or addition to

the transferred rules shall be under the jurisdiction of the Department of Public Safety. All documents issued by the sections transferred to the Department of Public Safety, including, but not limited to, vehicle registrations and permits, shall be deemed to have been issued by the Department of Public Safety.

F. The Department of Public Safety may promulgate rules necessary for the utilization of motor license agents in the registration of vehicles pursuant to Section 1120 of Title 47 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 162.1, is amended to read as follows:

Section 162.1. The ~~Corporation Commission~~ Department of Public Safety is authorized to promulgate rules necessary to enable this state to participate in the Unified Carrier Registration System for interstate motor carriers, brokers, forwarders and leasing companies and interstate motor carriers holding intrastate authority as set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Subtitle C-Unified Carrier Registration Act of 2005.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 163, is amended to read as follows:

Section 163. A. No person shall transport household goods for compensation or other consideration in intrastate commerce without a

valid certificate issued by the ~~Corporation Commission~~ Department of Public Safety.

B. The ~~Commission~~ Department of Public Safety shall promulgate rules ensuring consumer protection and loss and damage claim procedures.

C. Every motor carrier, subject to this act, receiving household goods for transportation in intrastate commerce shall issue a receipt or bill of lading therefor, the form of which shall be prescribed by the ~~Commission~~ Department of Public Safety.

D. Record-keeping documents, as required by the ~~Commission~~ Department of Public Safety, shall be maintained by the motor carrier of household goods for a minimum of three (3) years. The ~~Commission~~ Department is authorized to require certain documents to be retained for a longer period of time pending a claim or for any other reason the ~~Commission~~ Department deems necessary.

E. Any person, motor carrier, or shipper who shall willfully violate any provision of this act or the ~~Commission's~~ Department of Public Safety's rules pursuant thereto may be found in violation by the ~~Commission~~ Department. After proper notice and hearing, violators may be assessed penalties in an amount not to exceed One Thousand Dollars ($1,000.00) for the first violation and for the second violation within a year a penalty not to exceed Five Thousand Dollars ($5,000.00).

SECTION 4. AMENDATORY 47 O.S. 2011, Section 166, is amended to read as follows:

Section 166. A. It is hereby declared unlawful for any person to transport household goods in intrastate commerce without a valid certificate issued by the ~~Corporation Commission~~ Department of Public Safety.

B. Motor carriers engaged in intercorporate hauling must obtain a certificate in the motor carrier's name.

C. Applicants for intrastate authority to transport household goods shall file an application as required by this act and as prescribed by the ~~Commission~~ Department. A household goods certificate shall be issued to the applicant upon completion of all requirements.

D. The ~~Commission~~ Department may consider any written protests or written complaints filed prior to granting or renewing a household goods certificate. If the ~~Commission~~ Department elects not to grant or renew a household goods certificate, the application shall be set for public hearing in accordance with ~~Commission~~ Department rules.

E. Household goods certificates may not be assigned or transferred.

F. The ~~Commission~~ Department shall exercise any additional power that may from time to time be conferred upon the state by any Act of Congress.

G. The ~~Commission~~ Department shall adopt rules prescribing the manner and form in which motor carriers shall apply for a household goods certificate.

SECTION 5. AMENDATORY 47 O.S. 2011, Section 169, is amended to read as follows:

Section 169. A. No certificate shall be issued by the ~~Corporation Commission~~ Department of Public Safety to any motor carrier of household goods until after such motor carrier shall have filed with the ~~Commission~~ Department a liability insurance policy or bond covering public liability and property damage, issued by some insurance or bonding company or insurance carrier authorized as set forth below, and which has complied with all of the requirements of the ~~Commission~~ Department, which bond or policy shall be approved by the ~~Commission~~ Department, and shall be in such sum and amount as fixed by a proper order of the ~~Commission~~ Department; and such liability and property damage insurance policy or bond shall bind the obligor thereunder to make compensation for injuries to, or death of, persons, and loss or damage to property, resulting from the operation of any such motor carrier for which such carrier is legally liable. After judgment against the carrier for any damage, the injured party may maintain an action upon the policy or bond to recover the same, and shall be a proper party to maintain such action.

B. Every motor carrier of household goods shall file with the ~~Commission~~ Department a cargo insurance policy or bond covering any goods or property being transported, issued by some insurance or bonding company or insurance carrier authorized as set forth below, and which has complied with all of the requirements of the ~~Commission~~ Department, which bond or policy shall be approved by the ~~Commission~~ Department, and shall be in a sum and amount as fixed by ~~Commission~~ Department rule. The cargo insurance must be filed with the ~~Commission~~ Department prior to a certificate being issued by the ~~Commission~~ Department.

C. No carrier, whose principal place of business is in Oklahoma, shall conduct any operations in this state unless the operations are covered by a valid primary bond or insurance policy issued by an insurer authorized or approved by the Oklahoma Insurance Department. No carrier whose principal place of business is not in Oklahoma shall conduct any operations in this state unless the operations are covered by a valid bond or insurance policy issued by an insurer licensed or approved by the insurance regulatory authority of the state of their principal place of business or the Oklahoma Insurance Department.

D. Each motor carrier shall maintain on file, in full force, all insurance required by the laws of the State of Oklahoma and the rules of the ~~Commission~~ Department during such motor carrier's operation and that the failure for any cause to maintain such

coverage in full force and effect shall immediately, without any notice from the ~~Commission~~ Department, suspend such carrier's rights to operate until proper insurance is provided. Any carrier suspended for failure to maintain proper insurance shall have a reasonable time, not exceeding sixty (60) days, within which to provide proper insurance and to have the carrier's authority reactivated, upon showing:

1. No operation during the period in which the carrier did not have insurance; and

2. Furnishing of proper insurance coverage.

E. Any carrier who fails to reactivate the carrier's certificate within sixty (60) days after such suspension, as above provided, shall have the certificate canceled, by operation of law, without any notice from the ~~Commission~~ Department. No certificate so canceled shall be reinstated or otherwise made operative except that the ~~Commission~~ Department may reinstate the authority of a motor carrier upon proper showing that the motor carrier was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the ~~Commission~~ Department was not due to the motor carrier's fault. Any carrier desiring to file for reinstatement of the carrier's certificate shall do so within ninety (90) days of its cancellation by law.

F. The ~~Commission~~ Department shall, in its discretion, permit the filing of certificates of insurance coverage on such form as may

be prescribed by the ~~Commission~~ Department, in lieu of copies of insurance policies or bonds, with the proviso that if the certificates are authorized, the insurance company or carrier so filing it, upon request of the ~~Commission~~ Department, shall, at any time, furnish an authenticated copy of the policy which the certificate represents, and further provided that thirty (30) days prior to effective cancellation or termination of the policy of insurance for any cause, the insurer shall so notify the ~~Commission~~ Department in writing of the facts or as deemed necessary by the ~~Commission~~ Department.

SECTION 6. AMENDATORY 47 O.S. 2011, Section 177.2, is amended to read as follows:

Section 177.2. A. No motor carrier shall engage in the business of transporting any salt water, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells and brine wells, for any valuable consideration whatever, or in any quantity over twenty (20) gallons, without a license authorizing such operation and a deleterious substance transport permit to be issued by the ~~Commission~~ Department of Public Safety. Provided, transportation of such substances by private carrier of property by motor vehicle shall require a deleterious substance transport permit.

B. No carrier shall transport deleterious substances under a carrier license issued by the ~~Commission~~ Department until such time as the carrier has been issued a deleterious substance transport permit.

C. No deleterious substance transport permit shall be issued to a motor carrier or private carrier until the carrier has furnished written proof of access to a Class II disposal well or wells. ~~Said~~ Such written proof of access shall be provided by the owner of such disposal well. Such disposal well must first be approved by the ~~Corporation Commission~~ Department as adequate to meet the need for proper disposal of all substances which the applicant may reasonably be expected to transport as a motor carrier or private carrier. Provided that nothing in this section shall be construed as prohibiting the disposition of such deleterious substances in a disposal well that is owned by a person other than the transporter.

D. The ~~Commission~~ Department shall maintain a current list of such permits. The ~~Commission~~ Department shall charge such annual deleterious substance transport permitting fees as will cover the cost of issuing such licenses and an annual fee of Two Hundred Fifty Dollars ($250.00) for each such deleterious substance transport license. Proceeds from the fees shall be deposited by the ~~Commission~~ Department in the State Treasury to the credit of the ~~Corporation Commission~~ Department of Public Safety Revolving Fund.

The provisions of this section are supplemental and are in addition to the laws applicable to motor carriers.

SECTION 7. AMENDATORY 47 O.S. 2011, Section 177.3, is amended to read as follows:

Section 177.3. A. It shall be unlawful for a motor carrier, whether private, common, or contract, to dump, disperse, or otherwise release substances described in Section 177.2 of this title upon a public highway or elsewhere except on property or in wells, reservoirs, or other receptacles owned, held, leased, or otherwise rightfully and legally available to the motor carrier for such use and purpose.

B. It shall be unlawful for any motor truck or tank vehicle used to transport substances described in Section 177.2 of this title to have a release device located or operated in any manner from within the cab of such a motor vehicle.

C. Any violation of the provisions of subsections A or B of this section shall constitute a misdemeanor. It shall be the duty of the prosecuting attorney of the county in which a violation of the provisions of this section occurs to file and prosecute the aforementioned misdemeanor charge and advise the ~~Commission~~ Department of Public Safety of such action and the results thereof.

D. The ~~Oklahoma Corporation Commission~~ Department of Public Safety may initiate contempt proceedings for any violation concerning disposal by a carrier of a substance described in Section

177.2 of this title. The first violation proven by the ~~Commission~~ Department in any calendar year shall result in a motor carrier or private carrier being warned by the ~~Commission~~ Department and, upon conviction, fined up to Two Thousand Five Hundred Dollars ($2,500.00). A second violation proven by the ~~Commission~~ Department in any calendar year shall result in a motor carrier or private carrier being placed on probation and fined up to Five Thousand Dollars ($5,000.00) by the ~~Commission~~ Department. A third violation proven by the ~~Commission~~ Department in any calendar year shall result in a fine of up to Twenty Thousand Dollars ($20,000.00), and, at the discretion of the ~~Commission~~ Department, cancellation of the carrier's license for a period up to one (1) year and cancellation of a motor carrier or private carrier deleterious substance transport permit. The driver of a truck, who is not the owner of the vehicle used in violation of this section or any of the rules and regulations of the ~~Oklahoma Corporation Commission~~ Department of Public Safety, shall be adjudicated a codefendant and subject to a fine equal to ten percent (10%) of the fine assessed to the owner of such vehicle, up to Five Hundred Dollars ($500.00).

SECTION 8. AMENDATORY 47 O.S. 2011, Section 180, is amended to read as follows:

Section 180. The following words and phrases, when used in ~~this act~~ Section 180 et seq. of this title, shall have the meanings

respectively ascribed to like words and phrases by the motor carrier statutes of Oklahoma, except as herein provided:

1. The term "identification application" shall mean the application as provided by the ~~Commission~~ Department of Public Safety, for making application for motor carrier vehicle identification devices; and

2. The term "identification device" shall mean the motor carrier vehicle identification device issued by the ~~Commission~~ Department under the provisions of this act for the purpose of identifying powered motor carrier vehicles operated under and coming within the provisions of this act or the Motor Carrier Act of 1995.

SECTION 9. AMENDATORY 47 O.S. 2011, Section 180a, is amended to read as follows:

Section 180a. It is hereby declared unlawful for any motor carrier~~, his~~ or its agents or employees to operate any powered motor vehicle, as a motor carrier for hire, within this state, without the identification device issued by the ~~Commission~~ Department of Public Safety, ~~said~~ such device to be displayed as provided by the rules of the ~~Commission~~ Department.

SECTION 10. AMENDATORY 47 O.S. 2011, Section 180b, is amended to read as follows:

Section 180b. The identification device shall be the property of the ~~Commission~~ Department of Public Safety at all times, and shall be subject to seizure and confiscation by the ~~Commission~~

Department for any good cause and at the will of the ~~Commission~~ Department.

SECTION 11. AMENDATORY 47 O.S. 2011, Section 180c, is amended to read as follows:

Section 180c. The Commission may issue an order for the seizure and confiscation and return to the ~~Commission~~ Department of Public Safety of any identification device or devices, for any of the following reasons, and to direct ~~said~~ the order or orders to any officer of the State of Oklahoma charged with the duties of enforcing the provisions of this act and/or any other section of the motor carrier law now in force or hereinafter enacted:

1. In all cases where the motor carrier has permitted the insurance coverage, as required by law to be filed with the ~~Commission~~ Department, to lapse or become cancelled or for any reason to become void and fail to meet the requirements as provided by law;

2. For failure on the part of any motor carrier~~, his~~ or its agents or employees to comply with any part or provision of this act, or any other act or law or part or provision thereof relative to the legal operation of a for-hire motor carrier or to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the ~~Commission~~ Department;

3. Upon the cancellation or revocation of the certificate or permit or IRC or license under which ~~said~~ the identification device or devices were issued; or

4. For operating any powered motor vehicle in violation of the terms and provisions of this act or the Motor Carrier Act of 1995 and all applicable size and weight laws and safety standards of this state.

SECTION 12. AMENDATORY 47 O.S. 2011, Section 180d, is amended to read as follows:

Section 180d. The ~~Commission~~ Department of Public Safety shall have the power and authority by general order or otherwise to promulgate rules and regulations for the administration and enforcement of the provisions of this act or the Motor Carrier Act of 1995.

SECTION 13. AMENDATORY 47 O.S. 2011, Section 180e, is amended to read as follows:

Section 180e. The ~~Commission~~ Department of Public Safety, in its discretion, is authorized to provide for decals, cab cards, or other suitable methods of identification to be displayed on or carried in the truck or powered motor vehicle.

SECTION 14. AMENDATORY 47 O.S. 2011, Section 180f, is amended to read as follows:

Section 180f. The ~~Commission~~ Department of Public Safety is hereby authorized to purchase ~~said~~ identification devices in

sufficient amounts to supply the demand, and to purchase such other officer supplies and equipment as is necessary to administer and enforce the provisions of this act or the Motor Carrier Act of 1995, and to pay for, or cause the same to be paid for, out of the appropriation provided therefor.

SECTION 15. AMENDATORY 47 O.S. 2011, Section 180g, is amended to read as follows:

Section 180g. It shall be the duty of the ~~Commission~~ Department of Public Safety to provide identification devices upon written application of any authorized motor carrier.

Upon written application of any authorized motor carrier holding a certificate or permit or license issued by the ~~Commission~~ Department, the ~~Commission~~ Department shall issue to the motor carrier a sufficient number of identification devices so that each powered vehicle owned or to be operated by the motor carrier in the state shall bear one identification device. Identification devices shall be issued on an annual basis, and applications shall be made annually on the form prescribed by the ~~Commission~~ Department, and any motor carrier operating a powered vehicle without a current identification device shall be in violation of the provisions of ~~Sections~~ Section 180 ~~through 180m~~ et seq. of this title or the Motor Carrier Act of 1995.

It is hereby declared unlawful for any motor carrier, or agents or employees of any motor carrier, to use or transfer an

identification device except as provided by rules of the ~~Commission~~ Department.

SECTION 16. AMENDATORY 47 O.S. 2011, Section 180h, is amended to read as follows:

Section 180h. The ~~Corporation Commission~~ Department of Public Safety is hereby authorized to collect from applicants for motor carrier and private carrier identification devices a fee of Seven Dollars ($7.00) for registration of each of its vehicles registered under the provisions of this act or the Motor Carrier Act of 1995; and the fee shall be in addition to any other fees now provided for by law for the registration of ~~said~~ motor vehicles and shall be deposited in the State Treasury to the credit of the Trucking One-Stop Shop Fund.

SECTION 17. AMENDATORY 47 O.S. 2011, Section 180k, is amended to read as follows:

Section 180k. All records of the ~~Corporation Commission~~ Department of Public Safety under this act shall be maintained in, and classified as all other records in the Transportation Division of the ~~Corporation Commission~~ Department of Public Safety.

SECTION 18. AMENDATORY 47 O.S. 2011, Section 180l, is amended to read as follows:

Section 180l. The ~~Commission~~ Department of Public Safety is hereby authorized and empowered, on behalf of the State of Oklahoma, and when it shall deem it to be in the best interest of the

residents of this state so to do, to enter into reciprocal compacts and agreements with other states, or the authorized agencies thereof, when such states have made provisions substantially similar to this section, respecting the regulation of motor vehicles engaged in interstate or foreign commerce upon and over the public highways. And such compacts and agreements may provide for the granting, to the residents of such states, privileges substantially similar to those granted thereby to Oklahoma residents: Provided: (1) That no such compact or agreement shall supersede or suspend the operation of any law, rule or regulation of the State of Oklahoma which shall apply to vehicles operated intrastate in the State of Oklahoma; (2) That any privileges, the granting of which shall be provided by any such compact or agreement, shall extend only in cases of full compliance with the laws of the state joining in such compact or agreement; (3) That no such compact or agreement shall supersede or suspend the operation of any law of the State of Oklahoma other than those applying to the payment of fees for registration certificates or identification devices; and (4) That the powers and authority of the Oklahoma Tax Commission to administer and enforce the tax laws of this state, pertaining to the taxation of motor vehicles, shall be in no manner superseded or suspended.

SECTION 19. AMENDATORY 47 O.S. 2011, Section 180m, is amended to read as follows:

Section 180m. In addition to all other duties as provided by law, it is hereby declared to be, and shall be the duty of all sheriffs, deputy sheriffs, district attorneys, enforcement officers appointed by the ~~Corporation Commission~~ Department of Public Safety of the State of Oklahoma, and all highway patrolmen within the State of Oklahoma:

1. To enforce the provisions of ~~Sections~~ Section 180 ~~through 180m~~ et seq. of this title or the Motor Carrier Act of 1995;

2. To apprehend and detain any motor vehicle or vehicles and driver or operator and their aides who are operating any motor vehicle, upon or along the highways of this state, for a reasonable length of time, for the purpose of investigating and determining whether such vehicle is being operated in violation of any of the provisions of ~~Sections~~ Section 180 ~~through 180m~~ et seq. of this title or the Motor Carrier Act of 1995;

3. To make arrests for the violation of the provisions of ~~Sections~~ Section 180 ~~through 180m~~ et seq. of this title or the Motor Carrier Act of 1995, without the necessity of procuring a warrant;

4. To sign the necessary complaint and to cause the violator or violators to be promptly arraigned before a court of competent jurisdiction for trial;

5. To aid and assist in the prosecution of the violator or violators in the name of the State of Oklahoma to the end that this law shall be enforced;

6. To report all such arrests for violations of ~~Sections~~ Section 180 ~~through 180m~~ et seq. of this title to the ~~Corporation Commission of Oklahoma~~ Department within ten (10) days after making such arrest and to furnish such information concerning same as the ~~Commission~~ Department may request; and

7. At the request of the ~~Corporation Commission~~ Department, to seize and confiscate any and all identification devices and to forward the same to the ~~Corporation Commission~~ Department for cancellation.

SECTION 20. REPEALER 47 O.S. 2011, Sections 162, 165, 166.5, 169.5, 170, 170.1, 170.2, 171, 171.1, 172 and 172.1, are hereby repealed.

SECTION 21. This act shall become effective July 1, 2013.

SECTION 22. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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