ENGROSSED SENATE
BILL NO. 391 By: Allen of the Senate

and

Bennett of the House

[motor vehicles - regulation of motor carriers - officer enforcement powers - oath and bond request - responsibilities - ~~effective date~~ - ~~emergency~~]

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 172, is amended to read as follows:

Section 172. A. E~~very owner of any motor vehicle, the agents or employees of the owner, and every other person who violates or fails to comply with or procures, aids, or abets in the violation of Sections 161 through 180m of this title or the Motor Carrier Act of 1995, or who fails to obey, observe, or comply with any order, decision, rule or regulation, direction, demand, or requirement of the Corporation Commission, or who procures, aids or abets any corporation or person in the person's, or its, refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand, or regulation shall be deemed guilty of a misdemeanor. Upon conviction in a criminal court of competent~~

~~jurisdiction, such misdemeanor is punishable by a fine of not exceeding One Thousand Dollars ($1,000.00).~~

~~B. The Corporation Commission shall report to the Attorney General of this state and the district attorney of the proper county having jurisdiction of such offense, any violation of any of the provisions of Sections 161 through 180m of this title or the Motor Carrier Act of 1995 or any rule of the Corporation Commission promulgated pursuant to the provisions of Sections 161 through 180m of this title or the Motor Carrier Act of 1995, by any motor vehicle owner, agent or employee of such owner, or any other person. Upon receipt of such report, the Attorney General or the district attorney of the proper county having jurisdiction of such offense shall institute criminal or civil proceedings against such offender in the proper court having jurisdiction of such offense. Any willful failure on the part of members of the Corporation Commission, the Attorney General or any district attorney, to comply with the provisions of this section, shall be deemed official misconduct. The Corporation Commission shall report such complaints so made to the Governor of this state who shall direct and cause the laws of this state to be enforced.~~

~~C.~~ Any ~~person~~ for-hire or private motor carrier subject to the jurisdiction of the Corporation Commission failing, neglecting or refusing to comply with the provisions of Sections ~~161~~ 161A through 180m of this title or the Motor Carrier Act of 1995, or with any

rule, regulation, or requirement of the Corporation Commission promulgated pursuant to the provisions of Sections ~~161~~ 161A through 180m of this title or the Motor Carrier Act of 1995, shall be guilty of contempt of the Corporation Commission, and shall be subject to a fine to be imposed by the Corporation Commission in a sum not exceeding Five Hundred Dollars ($500.00). Each day on which such contempt occurs shall be deemed a separate and distinct offense. The maximum fine to be assessed on each day shall be Five Hundred Dollars ($500.00). All fines collected pursuant to the provisions of this section shall be deposited in the State Treasury to the credit of the Corporation Commission Trucking One-Stop Shop Fund, as created in Section 1167 of this title. This subsection shall not apply in the specific instance of load capacity violations or violations applicable to the transportation or discharge of deleterious substances provided for by specific statutory provisions.

~~D.~~ B. The Corporation Commission shall appoint a director of transportation, a deputy director, ~~an insurance supervisor, an insurance clerk, two stenographers, a secretary to the director, an identification device supervisor and an assistant identification device supervisor~~ and additional staff sufficient to carry out the statutory responsibilities of the Transportation Division at such salaries as the Legislature may from time to time prescribe. The employees shall be allowed actual and necessary travel expenses

pursuant to the provisions of the State Travel Reimbursement Act. All of the expense claims shall be presented and paid monthly.

~~E. Enforcement~~ C. Motor carrier enforcement officers, appointed by the Corporation Commission, are hereby declared to be peace officers of this state. Such officers shall be vested with all powers of peace officers in enforcing the provisions of Sections 6-301 through 6-308 of this title as they pertain to commercial motor vehicle drivers, Sections 11-901 through 11-906.4 of this title, Sections ~~161~~ 161A through 180m of this title, and the Motor Carrier Act of 1995 in ~~all parts~~ those areas of this state set forth in Section 1202 of this title.

The powers and duties conferred upon ~~said~~ the motor carrier enforcement officers shall in no way limit the powers and duties of sheriffs or other peace officers of the state, or any political subdivision thereof, or of members of the Division of Highway Patrol, subject to the Department of Public Safety.

~~F.~~ D. The motor carrier enforcement officers when on duty, upon reasonable belief that any motor vehicle is being operated in violation of any provisions of Sections ~~161~~ 161A through 180m of this title or the Motor Carrier Act of 1995, shall be authorized to require the driver of the vehicle to stop and submit to an inspection of the identification device, or devices, in the vehicle, and to submit to such enforcement officer bills of lading, waybills, or other evidences of the character of the commerce being

transported in such vehicle, and to submit to an inspection of the contents of such vehicle for the purpose of comparing same with bills of lading or shipping documentation, waybills, or other evidences of transportation carried by the driver of the vehicle. The officers shall not have the right to plea bargain.

~~G.~~ E. The motor carrier enforcement officers are authorized to serve all warrants, ~~writs~~ citations, orders, and notices issued by the Corporation Commission ~~relating to the enforcement of the provisions of Sections 161 through 180m of this title or the Motor Carrier Act of 1995 and the rules, regulations, and requirements prescribed by the Corporation Commission promulgated pursuant to Sections 161 through 180m of this title or the Motor Carrier Act of 1995~~ in all parts of this state.

~~H.~~ F. The motor carrier enforcement officers shall not have the power or right of search, nor shall they have the right of power of seizure, except as provided in Sections ~~161~~ 161A through 180m of this title ~~or~~, the Motor Carrier Act of 1995 or as provided in other subsections of this section. The enforcement officers are authorized to hold and detain any motor vehicle operating upon the highways of this state, if, the enforcement officer has reason to believe that the vehicle is being operated contrary to the provisions of Sections ~~161~~ 161A through 180m of this title or the Motor Carrier Act of 1995~~,~~ or the rules, regulations, and requirements of the Corporation Commission promulgated pursuant to

Sections ~~161~~ 161A through 180m of this title or the Motor Carrier Act of 1995.

~~I.~~ G. No state official, other than members of the Corporation Commission, shall have any power, right~~,~~ or authority to command, order~~,~~ or direct any enforcement officer to perform any duty or service authorized by ~~Sections 161 through 180m of~~ this title ~~or the Motor Carrier Act of 1995~~.

~~J. Each of the enforcement officers shall, before entering upon the discharge of their duties, take and subscribe to the usual oath of office and shall execute to the State of Oklahoma a bond in the sum of Twenty-five Thousand Dollars ($25,000.00) each, with sufficient surety for the faithful performance of their duty. The bond shall be approved and filed as provided by law.~~

~~K.~~ H. No enforcement officer or employee of the Oklahoma Corporation Commission shall have the right to plea bargain in motor carrier or motor transportation matters except the chief legal counsel of the Commission or an assign of the legal staff of the chief legal counsel.

I. While on duty in those areas of this state set forth in Section 1202 of this title, motor carrier enforcement officers, upon reasonable belief that any motor vehicle is being operated in violation of any provisions of Sections 11-901 through 11-906.4 of this title, are authorized to hold and detain the vehicle and to enforce those provisions as provided in Chapter 67 of this title and

applicable administrative rules. The Corporation Commission may enter into interagency agreements with the Department of Public Safety and with county or municipal law enforcement agencies to facilitate the testing and/or detention of any driver suspected of operating a commercial motor vehicle in violation of Sections 11-901 through 11-906.4 of this title.

J. While on duty in those areas of this state set forth in Section 1202 of this title, motor carrier enforcement officers are authorized to enforce Sections 6-301 through 6-309 of this title as they pertain to commercial drivers as defined in Section 1-108 of this title. Pursuant to this authority, motor carrier enforcement officers are authorized to require the driver of a commercial motor vehicle to submit to an inspection of the driver's license to determine if the driver is operating pursuant to a valid Class A, B or C commercial license as defined by Sections 1-107.1 through 1-107.3 of this title. The Department of Public Safety shall coordinate with the Corporation Commission to facilitate performance of commercial driver license inspections by motor carrier enforcement officers.

K. While on duty in those areas of this state set forth in Section 1202 of this title, motor carrier enforcement officers appointed by the Corporation Commission are authorized to enforce Federal Motor Carrier Safety Regulations contained in 47 CFR Part 40 and Parts 300-399 by performing Level II and Level III North

American Standard Inspections as defined by Section 1201 of this title. The Department of Public Safety shall coordinate with the Corporation Commission to facilitate performance of such inspections by enforcement officers appointed by the Corporation Commission and to facilitate certification of enforcement officers to perform such inspections according to Federal Motor Carrier Safety Administration standards.

~~SECTION 2. This act shall become effective July 1, 2015.~~

~~SECTION 3. 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.~~

Passed the Senate the 9th day of March, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

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Presiding Officer of the House of Representatives