SENATE FLOOR VERSION
February 3, 2015
AS AMENDED

SENATE BILL NO. 241 By: Fields of the Senate

and

Williams of the House

[Oklahoma Vessel and Motor Registration Act - optional annual registration of canoes - fee amount - construing provision - licensed dealers - codification - effective date]

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 4002, as amended by Section 1, Chapter 323, O.S.L. 2012 (63 O.S. Supp. 2014, Section 4002), is amended to read as follows:

Section 4002. As used in the Oklahoma Vessel and Motor Registration Act:

1. "Boat livery" means a business establishment engaged in renting or hiring out vessels for profit;

2. "Canoe" means a light ~~narrow~~, slender boat with ~~both ends sharp and which is~~ pointed ends, propelled by ~~paddling~~ paddles and includes similar craft such as kayaks;

3. "Certificate of documentation" means a document issued by the United States Coast Guard which is legal proof of ownership of a vessel;

4. "Certificate of registration" means a document which is legal proof of registration of a vessel or motor;

5. "Certificate of title" means a document which is proof of legal ownership of a vessel and/or motor;

6. "Commission" means:

a. the Oklahoma Tax Commission, or

b. the equivalent vessel registration and licensing agency of a federally recognized Indian tribe in this state;

7. "Dealer" means any person engaged in the business of selling, trading, renting with option to purchase, or attempting to negotiate or negotiating sales or exchanges of interests in new or used vessels or motors, or new and used vessels or motors, or any combination thereof;

8. "Dealer agreement" means the agreement, authorization or written contract between a manufacturer and distributor and a new vessel dealer which purports to establish the legal rights and obligations of the parties to the agreement, authorization or written contract with regard to the purchase and sale of new vessels or new motors;

9. "Designated successor" means one or more persons nominated by the new vessel dealer, in a written document filed by the dealer with the manufacturer or distributor at the time the dealer agreement is executed, to succeed the dealer in the event of the dealer's death or incapacity. If a designated successor is not able to succeed the new vessel dealer because of the designated successor's death or legal incapacity, the dealer shall execute a new document nominating a designated successor within sixty (60) calendar days after the date of the death or incapacity;

10. "Distributor" means a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer or who maintains a factory representative, resident or nonresident, or who controls a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer;

11. "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes a factory branch is maintained;

12. "Distributor representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vessels or motors, for the purpose of making or promoting the sale of his or her, its or their vessels or motors, or for

supervising or contacting his, its or their dealers or prospective dealers;

13. "Documented vessel" means any vessel in this state which shall have and carry on board the original certificate of documentation in legible form as issued by the United States Coast Guard or federal agency successor thereto. All documented vessels shall be required to display a current State of Oklahoma annual registration decal;

14. "Factory branch" means a branch office maintained by a person, firm, association, corporation or trust who manufactures or assembles vessels or motors for the sale of vessels or motors to distributors, or for the sale of vessels or motors to dealers, or for directing or supervising, in whole or in part, its representatives;

15. "Factory representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a manufacturer of vessels or motors or by a factory branch, for the purpose of making or promoting the sale of his, her, its or their vessels or motors, or for supervising or contacting his, its or their dealers or prospective dealers;

16. "Hull identification number" means the serial number affixed to the outside of the hull of a vessel on the upper

starboard side (right) corner of the transom (back wall) which is assigned by the manufacturer or the Commission;

17. "Inboard motor" means an internal combustion engine mounted inside a vessel which provides the transfer of power to move a vessel through the water;

18. "Inboard/outboard motor" means an internal combustion engine mounted inside a vessel and an external stern drive attached through the transom of the vessel providing the transfer of power to move the vessel through the water;

19. "John boat" means a narrow, flat bottomed square-ended boat propelled by a pole, paddle or a motor less than ten (10) horsepower;

20. "Lifeboat" means a vessel carried on another vessel in excess of sixty-five (65) feet for use if such other vessel has to be abandoned;

21. "Manufacturer" means a person who manufactures or assembles new vessels or new motors, or a distributor, factory branch, or factory representative;

22. "Motor" means any internal combustion engine mounted at the stern of a vessel or placed inside a vessel which provides the transfer of power to move the vessel through the water;

23. "New vessel dealer" means a person who holds a dealer agreement granted by a manufacturer or distributor for the sale of the manufacturer's or distributor's vessels or motors, who is

engaged in the business of purchasing, selling, exchanging, or dealing in new vessels or new motors, and who has an established place of business;

24. "Operate" means to navigate or be in actual physical control of a vessel or otherwise use a vessel or motor;

25. "Outboard motor" means an internal combustion engine capable of being externally mounted at the stern of a vessel which provides the transfer of power to move a vessel through the water;

26. "Owner" means a person, other than a lienholder, having a property interest in or title to a vessel or motor. The term includes a person entitled to the use or possession of a vessel or motor subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

27. “Paddleboat” means a boat less than eight (8) feet in length designed to be propelled solely by human power through a belt, chain or gears;

28. "Permanent number" means the distinctive and unique number which:

a. the Commission permanently assigns to a vessel, irrespective of any change of ownership of said vessel. The permanent number shall begin with the

letters "OK", followed by four numerals, and then followed by two letters, or

b. any federally recognized Indian tribe in this state assigns to a vessel;

provided, the number is configured as prescribed in 33 C.F.R., Parts 173 and 174;

29. "Person" means a natural person, partnership, corporation, association, trust, estate or other legal entity;

30. "Proposed new vessel dealer" means a person who has an application pending for a new dealer agreement with a manufacturer or distributor. Proposed new vessel dealer does not include a person whose dealer agreement is being renewed or continued;

31. "Purchase date" means the purchase date on a bill of sale or the date of complete assignment of title by the current owner;

32. "State" means the State of Oklahoma;

33. "State of principal use" means the state where the vessel or motor is used, is to be used, or remains for any period in excess of sixty (60) calendar days;

34. "Vessel" means every device, other than a canoe, paddleboat or seaplane on the water, used or capable of being used as a means of transportation on water, including but not limited to personal watercraft; and

35. "Waters of this state" means and includes all waters within the territorial limits of this state; provided, such phrase shall

not mean or include waters which are entirely owned by a private person or persons, and to which the public is not permitted access.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4003.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

The owner of a canoe may at any time file an application with the Oklahoma Tax Commission for a certificate of title, number and for annual registration for the canoe on forms prescribed and furnished by the Commission. The annual registration shall be One Dollar ($1.00). Registration pursuant to this section shall not be mandatory but optional on the part of the owner. Registration pursuant to this section shall not be construed as a requirement for the payment of excise tax on the sale of a canoe; provided, the sale of a canoe shall be subject to the payment of an applicable sales tax.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 4041, is amended to read as follows:

Section 4041. The Oklahoma Tax Commission may deny an application for a license, or revoke or suspend a license or impose a fine not to exceed Five Hundred Dollars ($500.00) against a dealer for each day that any provision of this section or Sections 4033 through 4040 of this title is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for any license pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act;

2. For any material misstatement made by an applicant in any application for any license pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act;

3. For any failure to comply with any provision of the Oklahoma Vessel and Motor Registration Act or any rule promulgated by the Commission under authority vested in it by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title;

4. A change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Being a dealer who:

a. has required a purchaser of a new vessel or motor, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser and installed by the dealer,

b. uses any false or misleading advertising in connection with his business as such a dealer,

c. has committed any unlawful act which resulted in the revocation of any similar license in another state,

d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a vessel or motor,

e. has been convicted of a crime involving moral turpitude,

f. has committed a fraudulent act in selling, purchasing, or otherwise dealing in vessels or motors or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a vessel or motor or any interest therein including an option to purchase such vessel or motor, or

g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

6. Being a dealer who does not have an established place of business;

7. Being a new vessel or new motor dealer who:

a. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more vessels or motors at the same time, and which is equipped with such parts, tools and equipment as may be requisite for the servicing of vessels or motors in such a manner as to make them comply with the safety laws of this state and to

properly fulfill the dealer's or manufacturer's warranty obligation. Provided that the provisions of this subparagraph shall not apply to:

(1) mercantile establishments engaged in the selling of vessels and motors if:

(a) such vessel and motor business does not constitute more than ten percent (10%) of the business of such establishment,

(b) the vessels sold at such establishment are under fourteen (14) feet in length, and

(c) the outboard motors sold at such establishment are under ten (10) horsepower, or

(2) dealers which are engaged solely in the business of selling canoes. For the purposes of this subsection, "canoe" shall mean a ~~vessel that is long relative to its width, that has curved sides and is tapered to two (2)~~ light, slender boat with pointed ends~~, or is tapered to one (1) pointed end and blunt on the other end, and is generally of traditional shape~~ propelled by paddles and includes similar craft such as kayaks,

b. does not hold a dealer agreement in effect with a manufacturer or distributor of new vessels or motors for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such vessels or motors sold to purchasers and to perform any authorized post-sale work pursuant to the manufacturer's or distributor's warranty, or

c. does not properly service a new vessel or motor before delivery of same to the original purchaser thereof.

SECTION 4. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON FINANCE
February 3, 2015 - DO PASS AS AMENDED