STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 391 By: Allen

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 172, which relates to motor carrier enforcement officers; updating statutory reference; modifying authority of enforcement officers; providing for certain training; creating the Port-of-Entry Officer Unit within the Transportation Division of the Oklahoma Corporation Commission; providing certain authority and duties; providing uniform requirements; authorizing certain purchase authority; authorizing the promulgation of rules; providing for codification; and providing an effective date.

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. Every 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~~ 161A 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~~ 161A 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~~ 161A 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 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. 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 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~~ 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 161 through 180m of~~ this title, U.S. 49 CFR, and the Motor Carrier Act of 1995 under the direction of the Department of Public Safety in all parts of this state. Motor carrier officers and port of entry officers created pursuant to Section 2 of this act shall not have enforcement powers that are exclusive or separate from other peace officers enforcing the provisions of this act.

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. 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 through 180m of~~ this title, U.S. 49 CFR, 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. The motor carrier enforcement officers are authorized to serve all warrants, writs, and notices issued by the Corporation Commission relating to the enforcement of the provisions ~~of Sections 161 through 180m~~ of this title, U.S. 49 CFR, 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, U.S. 49 CFR, or the Motor Carrier Act of 1995.

H. ~~The 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 through 180m of this title or the Motor Carrier Act of 1995. 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 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 through 180m of this title or the Motor Carrier Act of 1995.~~

~~I.~~ No state official, other than members of the Corporation Commission and the Department of Public Safety, 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, U.S. 49 CFR, 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.~~ I. No motor carrier 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.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1204 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the Transportation Division of the Corporation Commission the Port-of-Entry Officer Unit which

shall consist of such employees the Commission deems necessary to carry out the provisions of this act.

B. The officers of the unit shall be stationed at all port-of-entry weigh stations, as defined by Section 1201 of Title 47 of the Oklahoma Statutes, and have the authority, responsibilities, powers and duties to enforce the provisions of Sections 161A through 180m of this title or the Motor Carrier Act of 1995.

C. All port-of-entry officers shall at all times while on duty be required to be dressed in a distinctive uniform and display a badge of office, both of which shall be completely different and distinguishable from those of the Oklahoma Highway Patrol and other motor carrier enforcement officers within the Corporation Commission. All such badges shall be furnished by the Commission, and each badge shall display a distinctive serial number. The type and detail of the uniforms shall be designated by the Commission, and the Commission shall furnish the uniforms and replace them when necessary.

D. The Corporation Commission is authorized to purchase and maintain necessary equipment and supplies and shall provide proper training necessary for the enforcement of the provisions of this section. The Commission is also authorized to promulgate rules to carry out the provisions of this act. However, the Commission shall not adopt any administrative rules that duplicate U.S. 49 CFR.

SECTION 3. This act shall become effective November 1, 2015.

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