

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1028

By: Bice

AS INTRODUCED

An Act relating to motor license agents; amending 47 O.S. 2011, Sections 1141.1, as amended by Section 4, Chapter 158, O.S.L. 2012, 1142, 1143 and 1143.2 (47 O.S. Supp. 2017, Section 1141.1), which relate to motor license agent procedures, accounting and distribution of funds; modifying procedures by which agents receive certain amounts of taxes and fees; deleting obsolete language; updating language; providing for agent fees to be deposited in specified manner and remitted back to agent on specified schedule; deleting authority for agent to retain certain amounts in specified deposits; modifying method and procedure by which agents are compensated; conforming language; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 1141.1, as amended by Section 4, Chapter 158, O.S.L. 2012 (47 O.S. Supp. 2017, Section 1141.1), is amended to read as follows:

Section 1141.1. A. Each motor license agent shall be entitled to ~~retain~~ the following amounts from the taxes and fees collected by such agent and remitted back to the agent to be used to fund the operation of the office of such motor license agent subject to the provisions of Sections 1140 through 1147 of this title:

1 1. Beginning July 1, 2005, Two Dollars and eighty-one cents
2 (\$2.81) for each vehicle registered and for each special license
3 plate issued pursuant to the Oklahoma Vehicle License and
4 Registration Act. Beginning July 1, 2006, and thereafter, Three
5 Dollars and fifty-six cents (\$3.56) for each vehicle registered and
6 for each special license plate issued pursuant to the Oklahoma
7 Vehicle License and Registration Act;

8 2. One Dollar and twenty-five cents (\$1.25) for each
9 certificate of title issued for boats and motors pursuant to the
10 Oklahoma Statutes;

11 3. For each certificate of registration issued for boats and
12 motors pursuant to the Oklahoma Statutes, an amount determined
13 pursuant to the provisions of subsection B of this section;

14 4. Two Dollars and twenty-five cents (\$2.25) for each
15 certificate of title issued pursuant to the Oklahoma Vehicle License
16 and Registration Act. Provided, the fee retention amount for
17 certificates of title issued pursuant to the provisions of
18 subsection H of Section 1105 of this title, in which an insurer pays
19 the optional twenty-two-dollar-fee amount, is Four Dollars and fifty
20 cents (\$4.50);

21 5. Beginning October 1, 2000, three percent (3%) of the vehicle
22 excise tax collected pursuant to Section 2103 of Title 68 of the
23 Oklahoma Statutes. ~~Beginning July 1, 2001, each motor license agent~~
24 ~~shall be entitled to retain three and one hundred twenty-five one-~~

~~thousandths percent (3.125%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. Beginning July 1, 2002, and for all subsequent years, each motor license agent shall be entitled to retain three Three and twenty-five one-hundredths percent (3.25%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. However, beginning July 1, 2003, the Legislature shall annually review the percentage to be retained by the motor license agents pursuant to this paragraph to determine shall be remitted back to the agent, subject to any Legislative review regarding whether such percentage should be adjusted;~~

6. Four percent (4%) of the excise tax collected on the transfer of boats and motors pursuant to the Oklahoma Statutes;

7. Two Dollars (\$2.00) for each driver license, endorsement, identification license, or renewal or duplicate issued pursuant to Section 6-101 et seq. of this title;

8. Two Dollars (\$2.00) for the recording of security interests as provided in Section 1110 of this title;

9. Two Dollars (\$2.00) for each inspection conducted pursuant to subsection L of Section 1105 of this title;

10. Three Dollars (\$3.00) for each inspection conducted pursuant to subsection M of Section 1105 of this title;

11. One Dollar (\$1.00) for each certificate of ownership filed pursuant to subsection R of Section 1105 of this title;

1 12. One Dollar (\$1.00) for each temporary permit issued
2 pursuant to Section 1124 of this title;

3 13. One Dollar and fifty cents (\$1.50) for processing each
4 proof of financial responsibility, driver license information,
5 insurance verification information, and other additional information
6 as provided in Section 7-602 of this title;

7 14. The mailing fees and registration fees provided in Sections
8 1131 and 1140 of this title;

9 15. The notary fee provided in Section 1143 of this title;

10 16. Three Dollars (\$3.00) for each lien entry form completed
11 and recorded on a certificate of title pursuant to subsection G of
12 Section 1105 of this title;

13 17. Seven Dollars (\$7.00) for each notice of transfer as
14 provided by subsection B of Section 1107.4 of this title;

15 18. Seven Dollars (\$7.00) for each certificate of title or each
16 certificate of registration issued for repossessed vehicles pursuant
17 to Section 1126 of this title;

18 19. Any amount specifically authorized by law ~~to be retained by~~
19 ~~the motor license agent~~ for the furnishing of a summary of a traffic
20 record; and

21 20. Beginning July 1, 2009, each motor license agent shall also
22 be entitled to a portion of the penalties for delinquent
23 registration or payment of excise tax as provided for in subsection
24 C of Section 1115, subsection F of Section 1132 and subsection C of

1 Section 1151 of this title and of subsection A of Section 2103 of
2 Title 68 of the Oklahoma Statutes.

3 ~~The balance of the All~~ funds collected shall be remitted to the
4 Oklahoma Tax Commission as provided in Section 1142 of this title
5 with the applicable amount to be remitted back to the agent or
6 apportioned pursuant to Section 1104 of this title.

7 B. For each certificate of registration issued for boats and
8 motors, an amount shall be remitted back to each motor license agent
9 ~~shall be entitled to retain~~ which shall be the greater of One Dollar
10 and twenty-five cents (\$1.25) or an amount to be determined by the
11 Tax Commission according to the provisions of this subsection. At
12 the end of fiscal year 1997 and each fiscal year thereafter, the Tax
13 Commission shall compute the average amount of registration fees for
14 all boats and motors registered in this state during the fiscal year
15 and shall multiply the result by six and twenty-two one-hundredths
16 percent (6.22%). The resulting product shall be the amount which
17 may be ~~retained by~~ remitted back to each motor license agent for
18 each certificate of registration for boats and motors issued during
19 the following calendar year.

20 SECTION 2. AMENDATORY 47 O.S. 2011, Section 1142, is
21 amended to read as follows:

22 Section 1142. A. There is hereby created as an official
23 depository of the Oklahoma Tax Commission a special agency account.
24 The Tax Commission is hereby authorized and directed to assign an

1 appropriate and distinctive number or designation for the account
2 herein created which shall be designated the Oklahoma Tax Commission
3 Motor License Agent Account. The Tax Commission shall assign an
4 appropriate and distinctive subaccount number or designation for
5 each motor license agent. Every motor license agent appointed under
6 the provisions of the Oklahoma Vehicle License and Registration Act
7 shall safeguard and preserve, in the manner herein required, all
8 monies paid to such agent which the agent is bound to account for
9 and pay over to the Tax Commission.

10 B. Each motor license agent shall establish, in a bank or banks
11 authorized to do a banking business in the state, such special
12 agency account and at any time that the motor license agent
13 accumulates a total amount of receipts of One Hundred Dollars
14 (\$100.00) or more then such motor license agent shall deposit within
15 a period of one (1) banking business day after the close of
16 business, all receipts which the agent is obligated to account for
17 and remit to the Tax Commission in the designated Oklahoma Tax
18 Commission Motor License Agent Account and no such monies shall be
19 deposited in any other banks or other depositories unless ~~the said~~
20 such bank accounts are maintained by the Tax Commission. Provided
21 that, where a motor license agent is doing business in a
22 municipality where there is no bank located, such motor license
23 agent shall have a period of three (3) banking business days after
24 the close of business to make such deposits. Advice of deposit

1 receipts or duplicate deposit receipts, in a form and in an amount
2 prescribed by the Tax Commission, shall be obtained and preserved as
3 directed by the Tax Commission. One shall be retained by the agent,
4 and one shall be immediately forwarded to the Tax Commission.

5 Withdrawals or transfers from such Oklahoma Tax Commission Motor
6 License Agent Account shall be made only by the duly authorized
7 agent of the Tax Commission. That part of the agent's fees ~~to be~~
8 ~~retained by the agent as~~ which constitute the agent's personal
9 compensation shall ~~not~~ be deposited in said Oklahoma Tax Commission
10 Motor License Agent Account and remitted back to the agent bi-
11 weekly.

12 Each motor license agent shall submit the appropriate reports
13 designated by the Tax Commission to properly account for all funds,
14 regardless of source, received by a motor license agent in the
15 performance of the agent's duties. Reports shall cover a period
16 from the first day of the month to the fifteenth day of the month
17 and from the sixteenth day of the month to the last day of the
18 month. It shall be the responsibility of the motor license agent to
19 mail or deliver such reports and all documents of all transactions
20 to the Tax Commission within a time period to be established by the
21 Tax Commission.

22 C. Motor license agents shall deposit in such account all
23 monies, taxes and fees collected and received by them as such
24 agents, which they are obligated to account for and remit to the Tax

1 Commission, and it is specifically required that checks or similar
2 instruments accepted or received by such agents for taxes or fees
3 must be deposited in such account, ~~less any amount provided by this~~
4 ~~act that the agents are entitled to retain as fees.~~

5 No motor license agent shall withdraw any funds from the agent's
6 motor license agent account. All checks, drafts, orders and
7 vouchers so deposited shall bear an endorsement to the motor license
8 agent account which endorsement shall include the assigned account
9 number and the agent's subaccount number. Items deposited shall be
10 credited at par and should payment be refused on any such check,
11 draft, order or voucher, or should the same prove otherwise
12 worthless, the amount thereof shall not be charged by the Tax
13 Commission against the individual subaccounts of the agent. The
14 agent shall continue to attempt to require proper payment of all
15 such worthless items, but shall not be personally liable to the Tax
16 Commission for their payment. The Tax Commission or agent shall
17 charge the person issuing the check a fee of Twenty-five Dollars
18 (\$25.00) for each check to cover the costs of the processing of each
19 returned check, and all necessary travel expenses of collection, as
20 provided by the State Travel Reimbursement Act; provided, such
21 charge shall not be made unless efforts have been made to present
22 such check, draft, order or voucher for payment a second time. Any
23 motor license agent who collects a dishonored check pursuant to the
24 provisions of Section 1121 of this title shall also collect a fee of

1 Twenty-five Dollars (\$25.00) and ~~shall be entitled to retain such~~
2 ~~fee~~ such amount shall be remitted back to the agent by the Tax
3 Commission.

4 D. Notwithstanding anything to the contrary, the Tax Commission
5 shall continue to have the exclusive authority and standing to
6 collect any taxes or other revenues owed to the State of Oklahoma or
7 any political subdivision thereof pursuant to the provisions of the
8 Motor Vehicle License and Registration Act.

9 E. It is specifically provided that nothing in this section
10 shall be considered or construed as in any way affecting, relieving
11 or relinquishing the liability of such agent to the Tax Commission
12 for any monies collected by the agent and due the state or the
13 liability of such agent or any surety on or under the agent's bond
14 made to the Tax Commission.

15 Unless provided otherwise, any motor license agent who fails to
16 comply with any provision of this section shall pay a penalty to be
17 imposed by the Tax Commission. Monies collected for payment of the
18 penalty shall be deposited to the credit of the General Revenue Fund
19 of the State Treasury. Any motor license agent who pays a penalty
20 pursuant to this section shall not allocate his or her payment
21 thereof as a part of his or her operating expenses, but shall use
22 his or her personal funds for payment of the penalty. Such penalty
23 shall be equal to one percent (1%) of the gross amount of the
24 receipts received by the motor license agent for that particular day

1 that the agent fails to deposit all such funds required by this
2 section or one percent (1%) of the gross amount of the receipts
3 received by the motor license agent for the report period that the
4 agent fails to timely mail the required report or remit any excess
5 agent funds as provided in subsection B of this section. Such
6 penalty shall be increased to three percent (3%) of the gross amount
7 of the receipts received for that particular day if the motor
8 license agent fails to fulfill any of said requirements within a
9 period of five (5) days. Provided that such penalty shall be three
10 percent (3%) of the gross amount of the receipts received by the
11 motor license agent for the report period that the agent fails to
12 timely mail the required report or remit any excess agent funds as
13 provided in subsection B of this section if the motor license agent
14 fails to fulfill these requirements within five (5) days.

15 The Tax Commission may waive the penalty for failing to timely
16 file the accounting report required by this section if the Tax
17 Commission finds that:

18 1. The funds to which the report applies have been properly
19 deposited;

20 2. The failure to timely file the report was due to emergency
21 conditions beyond the control of the agent; and

22 3. The report has been filed within a week of the date on which
23 it was required to be filed.
24

1 It shall be the duty of the Tax Commission to discharge
2 immediately any motor license agent who fails, neglects or refuses
3 to comply with the provisions of this section.

4 SECTION 3. AMENDATORY 47 O.S. 2011, Section 1143, is
5 amended to read as follows:

6 Section 1143. A. A motor license agent appointed under the
7 provisions of this title shall deposit in a designated Oklahoma Tax
8 Commission Motor License Agent Account all monies, taxes and fees
9 collected and received by them as such agents pursuant to Section
10 1142 of this title; provided, such agent shall retain as
11 compensation those taxes and fees collected and retained pursuant to
12 Section 1141.1 of this title, and shall additionally retain:

13 1. All amounts remaining from notary and mailing fees received
14 by such agent, after payment of all costs of handling and mailing;

15 2. All profits from any concessions operated in the agent's
16 office; and

17 3. All amounts collected pursuant to subsection H of Section
18 1111 of this title.

19 B. A motor license agent shall receive a fee of not more than
20 One Dollar (\$1.00) for each document notarized and a fee of fifty
21 cents (\$0.50) for any documents mailed.

22 C. The Oklahoma Tax Commission shall initiate a mail order
23 vehicle registration notification program, which shall consist of
24 notification annually to all vehicle owners in this state of such

1 time an owner shall register and license a vehicle as provided for
2 in Section 1101 et seq. of this title. The notification issued by
3 the Tax Commission shall include a breakdown of all charges to be
4 paid by the owner, other items deemed necessary by the Tax
5 Commission and shall notify the owner of the option of paying
6 registration fees and receiving the license plate or decal through
7 the mail directly from the Tax Commission or of registering and
8 receiving the license plate or decal from a motor license agent. On
9 the back of such registration notification forms there shall be the
10 address of the Oklahoma Tax Commission in large black type and an
11 explanation of the apportionment of all license fees and penalties
12 collected and their disposition. Such explanation shall include
13 information as to all charges included in the total license fee and
14 any fees or charges incident to the registration of a motor vehicle,
15 to include all fees that a motor license agent is authorized to
16 collect. If the owner chooses the option of receiving these
17 services through the mail, either from the Tax Commission or the
18 motor license agent, the owner shall then be instructed to pay the
19 final total listed. The costs of mailing shall be One Dollar
20 (\$1.00) for license plates, fifty cents (\$0.50) for decals and fifty
21 cents (\$0.50) for the mailing of any other form, title, decal or
22 device provided for in the Oklahoma Vehicle License and Registration
23 Act. Provided however, the Tax Commission may adjust any mailing
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1 costs from time to time as it deems appropriate and as will allow
2 for additional fees the U.S. Postal Service may charge.

3 D. Money received by the Tax Commission for the issuance of any
4 registrations, license plates or otherwise shall be apportioned to
5 the schools in accordance with other laws controlling such
6 distributions.

7 E. Failure by an owner of a vehicle to receive registration
8 notification as provided for in the Motor Vehicle License and
9 Registration Act shall not in any manner relieve such person from
10 the obligation of proper and timely registration and licensing of
11 such vehicle, and such person shall be subject to any penalties
12 prescribed by the Oklahoma Vehicle License and Registration Act.

13 F. A motor license agent, out of the taxes and fees collected
14 and ~~retained~~ remitted back to the agent pursuant to Section 1141.1
15 of this title, shall obtain a faithful performance surety bond or
16 cash bond in the amount of Thirty Thousand Dollars (\$30,000.00) or
17 in such additional amount and form required by the Tax Commission or
18 by the Oklahoma Vehicle License and Registration Act, a blanket
19 surety bond or cash bond covering adequately all office personnel,
20 necessary insurance, necessary office equipment and furniture, and
21 other goods and services essential to the proper operation of the
22 motor license agency. Provided that the Tax Commission shall have
23 the authority to lower such required surety bond to an amount that
24 is commensurate with the amount of business conducted by the motor

1 license agent, but in no event shall that amount be less than Five
2 Thousand Dollars (\$5,000.00). Motor license agents shall obtain the
3 surety bond or cash bond required by this section only during their
4 first year of operation. Thereafter, the motor license agents shall
5 be subject to the provisions of Section 1143.1 of this title.

6 SECTION 4. AMENDATORY 47 O.S. 2011, Section 1143.2, is
7 amended to read as follows:

8 Section 1143.2. A. In addition to the duties and functions
9 authorized to be performed by motor license agents pursuant to the
10 provisions of the Oklahoma Vehicle License and Registration Act, the
11 Oklahoma Tax Commission is authorized to utilize motor license
12 agents to perform the following duties:

13 1. Process, receive, and issue permits, licenses, and
14 registration relating to any tax which is payable to, collectible
15 by, or administered by the Tax Commission;

16 2. Accept documents, reports, or returns required to be filed
17 with the Tax Commission and accept payment of remittances required
18 to be made to the Tax Commission as provided by the tax laws of this
19 state;

20 3. Provide information regarding the status of any permit or
21 license issued by the Tax Commission, or the franchise tax status of
22 any corporation, upon written request and subject to the provisions
23 of Section 205 of Title 68 of the Oklahoma Statutes and any other
24

1 provision of law relating to the confidentiality of records or
2 information; and

3 4. Perform any other duties specified by the Tax Commission
4 relating to the enforcement or administration of any state tax law.

5 B. Any permit, license, or registration issued by a motor
6 license agent, and any document, report, return, or remittance
7 accepted by a motor license agent, pursuant to the provisions of
8 subsection A of this section, shall be deemed on the date of such
9 issuance or acceptance to have been issued or accepted by the Tax
10 Commission.

11 C. In addition to the amounts ~~authorized to be retained by to~~
12 be remitted back to motor license agents pursuant to the provisions
13 of Section 1141.1 of ~~Title 47 of the Oklahoma Statutes~~ this title,
14 motor license agents shall be entitled to charge and receive fees,
15 which shall be remitted back by the Tax Commission, for duties
16 performed pursuant to the provisions of this section as provided by
17 law.

18 SECTION 5. This act shall become effective November 1, 2018.

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