STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3278 By: Kannady

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 1140, which relates to qualification of motor license agents; eliminating certain limitation on location of motor license agencies; providing limitation on location of motor license agencies; modifying required content of certain required attestation; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 1140, is amended to read as follows:

Section 1140. A. The Oklahoma Tax Commission shall adopt rules prescribing minimum qualifications and requirements for locating motor license agencies and for persons applying for appointment as a motor license agent; provided, after the effective date of this act such qualifications and requirements shall apply to agents in all areas of this state. Such qualifications and requirements shall include, but not be limited to, the following:

1. Necessary job skills and experience;

2. Minimum office hours;

3. Provision for sufficient staffing, equipment, office space and parking to provide maximum efficiency and maximum convenience to the public;

4. Obtainment of a faithful performance surety bond as provided for by law;

5. A requirement that operation of a motor license agency be the primary source of income for said agent;

6. That the applicant has not been convicted of a felony and that no felony charges are pending against the applicant;

7. That a complete financial statement be submitted by the applicant on forms provided by the Tax Commission;

8. That a report of the applicant's credit history be obtained through the appropriate credit bureau; and

9. That the location specified in the application for appointment as a motor license agent not be owned by ~~a member of the Oklahoma Legislature~~ an employee of the Tax Commission, a Tax Commissioner or any person related to a ~~member~~ Commissioner or an employee of the ~~Oklahoma Legislature~~ Tax Commission within the third degree by consanguinity or affinity and that the location not be within a three-mile radius of an existing motor license agency unless the applicant is assuming the location of an operating agency. The Tax Commission may, at its discretion, approve the relocation of an existing agency within a three-mile radius of another existing agency only if a naturally intervening geographic

barrier within that radius causes the locations to be separated by not less than three (3) miles of roadway by the most direct route.

After the necessary information has been forwarded to the Tax Commission, each applicant shall be interviewed by the Tax Commission or its designees and each item of information shall be reviewed.

Any person making application to the Tax Commission for the purpose of becoming a motor license agent shall pay when submitting the application, a nonrefundable application fee of One Hundred Dollars ($100.00). All such application fees shall be deposited in the Oklahoma Tax Commission Revolving Fund.

Upon application by a person to serve as a motor license agent, in such counties, the Tax Commission shall make a determination whether such person and such location meets the qualifications and requirements prescribed herein and, if such be the case, shall appoint such person to serve as a motor license agent.

A motor license agent, appointed pursuant to this subsection shall be permitted to operate a motor license agency at a single location and shall be prohibited from operating subagencies or branch agencies, unless such subagencies or branch agencies were established prior to June 1, 1985.

Unless otherwise specifically provided, motor license agents appointed pursuant to this subsection shall be subject to all laws relating to motor license agents and shall be subject to removal at the will of the Tax Commission.

B. Before the effective date of this act, in all counties of this state having a population of less than one hundred thirty thousand (130,000) and in municipalities having a population of less than eight thousand five hundred (8,500) located in a county having a population in excess of one hundred thirty thousand (130,000), according to the latest Federal Decennial Census, the Tax Commission shall appoint as many motor license agents as it deems necessary to carry out the provisions of the Motor Vehicle License and Registration Act. Provided, that in counties with a population in excess of twenty-five thousand (25,000) persons, according to the latest Federal Decennial Census, having only one motor license agent serving the county, the Tax Commission shall establish at least one additional agency to serve the county. Any motor license agent appointed pursuant to this subsection before the effective date of this act may continue to serve until such agent vacates the position by reason of resignation, removal, death or otherwise.

All motor license agents shall be self-employed independent contractors and shall be under the supervision of the Tax Commission; provided, any agent authorized to issue registrations pursuant to the International Registration Plan shall also be under the supervision of the Corporation Commission, subject to rules promulgated by the Corporation Commission pursuant to the provisions of subsection E of Section 1166 of this title. Any such agent, upon being appointed, shall furnish and file with the Tax Commission a bond in such amount as may be fixed by the Tax Commission. Such agent shall be removable at the will of the Tax Commission. Such agent shall perform all duties and do such things in the administration of the laws of this state as shall be enjoined upon and required by the Tax Commission or the Corporation Commission. Provided, the Tax Commission may operate a motor license agency in any county where a vacancy occurs.

C. In the event of a vacancy existing by reason of resignation, removal, death or otherwise, in the position of any motor license agent, the Tax Commission is hereby empowered and authorized to take any and all actions it deems appropriate in order to provide for the orderly transition and for the maintenance of operations of the motor license agency including but not limited to the designation of one of its regular employees to serve as "acting agent" without bond, and to receive and expend all fees or charges authorized or provided by law and exercise the same powers and authority as a regularly appointed motor license agent. An acting agent may be authorized by the Tax Commission equally as the preceding agent to make disbursements from any balances in the preceding motor license agent's operating account and the agent's operating funds for the payment of expenses of operations and salaries and other overhead. If such funds are insufficient, the Tax Commission is authorized to expend from funds appropriated for the operation of the Tax Commission such amounts as are necessary to maintain and continue the operation of any such motor license agency until a successor agent is appointed and qualified. The Tax Commission may require a blanket fiduciary bond of the agency employees.

D. Any motor license agency operated by a motor license agent who has been charged with a felony shall be closed immediately. The State Auditor and Inspector shall immediately conduct an audit of such motor license agency and forward the report of the audit to the Tax Commission for review. The Tax Commission shall determine whether the motor license agency shall be reopened and operated by the motor license agent or whether the agency shall be reopened and operated by the Tax Commission. The review of the audit and the Tax Commission determination shall be effected as soon as possible to prevent additional inconvenience to the public.

E. When an application for registration is made with the Tax Commission, Corporation Commission or a motor license agent, a registration fee of One Dollar and seventy-five cents ($1.75) shall be collected for each license plate or decal issued. Such fees shall be in addition to the registration fees on motor vehicles and when an application for registration is made to the motor license agent such motor license agent shall retain a fee as provided in Section 1141.1 of this title. When the fee is paid by a person making application directly with the Tax Commission or Corporation

Commission, as applicable, the registration fees shall be in the same amount as provided for motor license agents and the fee provided by Section 1141.1 of this title shall be deposited in the Oklahoma Tax Commission Revolving Fund or as provided in Section 1167 of this title, as applicable. The Tax Commission shall prepare schedules of registration fees and charges for titles which shall include the fees for such agents and all fees and charges paid by a person shall be listed separately on the application and registration and totaled on the application and registration. The motor license agents shall charge only such fees as are specifically provided for by law, and all such authorized fees shall be posted in such a manner that any person shall have notice of all fees that are imposed by law.

F. No person shall be appointed as a motor license agent unless the person has attested under oath that the person is not related by affinity or consanguinity within the third degree to:

1. Any member of the ~~Oklahoma Legislature~~ Tax Commission; or

2. ~~Any person who has served as a member of the Oklahoma Legislature within the two-year period preceding the date of appointment as motor license agent; or~~

~~3.~~ Any employee of the Tax Commission.

G. Any motor license agent appointed under the provisions of this title shall be responsible for all costs incurred by the Tax Commission when relocating an existing motor license agency. The

Tax Commission may waive payment of such costs in case of unforeseen business or emergency conditions beyond the control of the agent.

SECTION 2. This act shall become effective November 1, 2018.

56-2-8359 JM 12/29/17