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February 23, 2021

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 463

By: Hall of the Senate

and

Kannady of the House

An Act relating to motor license agents; amending 47 O.S. 2011, Section 1140, as last amended by Section 2, Chapter 195, O.S.L. 2019 (47 O.S. Supp. 2020, Section 1140), which relates to qualifications and requirements; modifying basis for removal of motor license agents; providing that motor license agents are subject to removal for cause by the Oklahoma Tax Commission; providing definition; providing procedure for removal; **amending 75 O.S. 2011, Section 250.4, as last amended by Section 214, Chapter 408, O.S.L. 2019 (75 O.S. Supp. 2020, Section 250.4), which relates to the Administrative Procedures Act; providing exception for certain compliance exemption; 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, as last amended by Section 2, Chapter 195, O.S.L. 2019 (47 O.S. Supp. 2020, 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

1 motor license agent. Such qualifications and requirements shall
2 include, but not be limited to, the following:

3 1. Necessary job skills and experience;

4 2. Minimum office hours;

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

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

10 5. In counties with a population in excess of thirty thousand
11 (30,000) persons according to the latest Federal Decennial Census, a
12 requirement that operation of a motor license agency be the primary
13 source of income for the agent;

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

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

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

20 9. That the location specified in the application for
21 appointment as a motor license agent not be owned by a member of the
22 Oklahoma Tax Commission or an employee of the Oklahoma Tax
23 Commission or any person related to a member of the Oklahoma Tax
24 Commission or an employee of the Tax Commission within the third

1 degree by consanguinity or affinity and that the location not be
2 within a three-mile radius of an existing motor license agency
3 unless the applicant is assuming the location of an operating
4 agency. If the applicant is assuming the location of an existing or
5 operating agency, the current agent may submit a letter of
6 resignation contingent upon the appointment of the applicant
7 regardless of the population of the municipality in which the agency
8 is located. The Tax Commission may, at its discretion, approve the
9 relocation of an existing agency within a three-mile radius of
10 another existing agency only if a naturally intervening geographic
11 barrier within that radius causes the locations to be separated by
12 not less than three (3) miles of roadway by the most direct route.

13 B. After the necessary information has been forwarded to the
14 Tax Commission, the Tax Commission or its designees may select
15 applicants to be interviewed and each item of information shall be
16 reviewed.

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

22 C. Upon application by a person to serve as a motor license
23 agent, in such counties, the Tax Commission is authorized to make a
24 determination whether such person and such location meets the

1 qualifications and requirements prescribed herein and, if such be
2 the case, may appoint such person to serve as a motor license agent.

3 D. A motor license agent, appointed pursuant to this
4 subsection, shall be permitted to operate a motor license agency at
5 a single location and shall be prohibited from operating subagencies
6 or branch agencies.

7 Motor license agents appointed pursuant to this section shall be
8 subject to all laws relating to motor license agents and shall be
9 subject to removal ~~at the will of~~ for cause by the Tax Commission.

10 For the purposes of this section, "for cause" shall be defined
11 as follows:

12 1. Repeated violations of written rules, regulations and
13 statutes pertaining to motor license agents after written warning by
14 the Tax Commission and an opportunity to correct such violations;

15 2. Failure of the motor license agent to promptly remit funds
16 owed to the Tax Commission upon written demand;

17 3. Being charged with a felony crime involving dishonesty or
18 moral turpitude;

19 4. Failure to timely file state and federal income tax returns;
20 or

21 5. Any act of official misconduct as set forth in Section 93 of
22 Title 51 of the Oklahoma Statutes.

23 The Tax Commission shall appoint as many motor license agents as
24 it deems necessary to carry out the provisions of the Motor Vehicle

1 License and Registration Act. Provided, that in counties with a
2 population in excess of twenty-five thousand (25,000) persons,
3 according to the latest Federal Decennial Census, having only one
4 motor license agent serving the county, the Tax Commission shall
5 establish at least one additional agency to serve the county.

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

21 F. In the event of a vacancy existing by reason of resignation,
22 removal, death or otherwise, in the position of any motor license
23 agent, the Tax Commission is hereby empowered and authorized to take
24 any and all actions it deems appropriate in order to provide for the

1 orderly transition and for the maintenance of operations of the
2 motor license agency including, but not limited to, the designation
3 of one of its regular employees to serve as "acting agent" without
4 bond, and to receive and expend all fees or charges authorized or
5 provided by law and exercise the same powers and authority as a
6 regularly appointed motor license agent. An acting agent may be
7 authorized by the Tax Commission equally as the preceding agent to
8 make disbursements from any balances in the preceding motor license
9 agent's operating account and the agent's operating funds for the
10 payment of expenses of operations and salaries and other overhead.
11 If such funds are insufficient, the Tax Commission is authorized to
12 expend from funds appropriated for the operation of the Tax
13 Commission such amounts as are necessary to maintain and continue
14 the operation of any such motor license agency until a successor
15 agent is appointed and qualified. The Tax Commission may require a
16 blanket fiduciary bond of the agency employees.

17 G. ~~Any motor license agency operated by a motor license agent~~
18 ~~who has been charged with a felony shall be closed immediately. The~~
19 ~~Tax Commission shall determine whether the motor license agency~~
20 ~~shall be reopened and operated by the motor license agent. The~~
21 ~~determination shall be effected as soon as possible to prevent~~
22 ~~additional inconvenience to the public~~ action by the Tax Commission
23 to remove a motor license agent from his or her position shall be
24

1 done in accordance with the provisions of the Administrative
2 Procedures Act.

3 H. When an application for registration is made with the Tax
4 Commission, Corporation Commission or a motor license agent, a
5 registration fee of One Dollar and seventy-five cents (\$1.75) shall
6 be collected for each license plate or decal issued. Such fees
7 shall be in addition to the registration fees on motor vehicles and
8 when an application for registration is made to the motor license
9 agent such motor license agent shall retain a fee as provided in
10 Section 1141.1 of this title. When the fee is paid by a person
11 making application directly with the Tax Commission or Corporation
12 Commission, as applicable, the registration fees shall be in the
13 same amount as provided for motor license agents and the fee
14 provided by Section 1141.1 of this title shall be deposited in the
15 Oklahoma Tax Commission Revolving Fund or as provided in Section
16 1167 of this title, as applicable. The Tax Commission shall prepare
17 schedules of registration fees and charges for titles which shall
18 include the fees for such agents and all fees and charges paid by a
19 person shall be listed separately on the application and
20 registration and totaled on the application and registration. The
21 motor license agents shall charge only such fees as are specifically
22 provided for by law, and all such authorized fees shall be posted in
23 such a manner that any person shall have notice of all fees that are
24 imposed by law.

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

4 1. Any member of the Oklahoma Tax Commission; or

5 2. Any employee of the Tax Commission.

6 J. Any motor license agent appointed under the provisions of
7 this title shall be responsible for all costs incurred by the Tax
8 Commission when relocating an existing motor license agency. The
9 Tax Commission may waive payment of such costs in case of unforeseen
10 business or emergency conditions beyond the control of the agent.

11 **SECTION 2. AMENDATORY 75 O.S. 2011, Section 250.4, as**
12 **last amended by Section 214, Chapter 408, O.S.L. 2019 (75 O.S. Supp.**
13 **2020, Section 250.4), is amended to read as follows:**

14 Section 250.4. A. 1. Except as is otherwise specifically
15 provided in this subsection, each agency is required to comply with
16 Article I of the Administrative Procedures Act.

17 2. The Corporation Commission shall be required to comply with
18 the provisions of Article I of the Administrative Procedures Act
19 except for subsections A, B, C and E of Section 303 of this title
20 and Section 306 of this title. To the extent of any conflict or
21 inconsistency with Article I of the Administrative Procedures Act,
22 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
23 it is expressly declared that Article I of the Administrative
24

1 Procedures Act is an amendment to and alteration of Sections 18
2 through 34 of Article IX of the Oklahoma Constitution.

3 3. The Oklahoma Military Department shall be exempt from the
4 provisions of Article I of the Administrative Procedures Act to the
5 extent it exercises its responsibility for military affairs.
6 Military publications, as defined in Section 801 of Title 44 of the
7 Oklahoma Statutes, shall be exempt from the provisions of Article I
8 and Article II of the Administrative Procedures Act, except as
9 provided in Section 251 of this title.

10 4. The Oklahoma Ordnance Works Authority, the Northeast
11 Oklahoma Public Facilities Authority, the Oklahoma Office of
12 Homeland Security and the Board of Trustees of the Oklahoma College
13 Savings Plan shall be exempt from Article I of the Administrative
14 Procedures Act.

15 5. The Transportation Commission and the Department of
16 Transportation shall be exempt from Article I of the Administrative
17 Procedures Act to the extent they exercise their authority in
18 adopting standard specifications, special provisions, plans, design
19 standards, testing procedures, federally imposed requirements and
20 generally recognized standards, project planning and programming,
21 and the operation and control of the State Highway System.

22 6. The Oklahoma State Regents for Higher Education shall be
23 exempt from Article I of the Administrative Procedures Act with
24 respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

8. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations, or pursuant to Chapter 6 of Title 47 of the Oklahoma Statutes, to maintain a current incorporation of federal commercial driver license regulations, for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.

1 b. Such rules may be adopted by the Commissioner and
2 shall be deemed promulgated twenty (20) days after
3 notice of adoption is published in "The Oklahoma
4 Register". Such publication need not set forth the
5 full text of the rule but may incorporate the federal
6 rules and regulations by reference.

7 c. Such copies of promulgated rules shall be filed with
8 the Secretary as required by Section 251 of this
9 title.

10 d. For any rules for which the Commissioner has
11 discretion to allow variances, tolerances or
12 modifications from the federal rules and regulations,
13 the Commissioner shall fully comply with Article I of
14 the Administrative Procedures Act.

15 9. The Council on Judicial Complaints shall be exempt from
16 Section 306 of Article I of the Administrative Procedures Act, with
17 respect to review of the validity or applicability of a rule by an
18 action for declaratory judgment, or any other relief based upon the
19 validity or applicability of a rule, in the district court or by an
20 appellate court. A party aggrieved by the validity or applicability
21 of a rule made by the Council on Judicial Complaints may petition
22 the Court on the Judiciary to review the rules and issue opinions
23 based upon them.

1 10. The Department of Corrections, State Board of Corrections,
2 county sheriffs and managers of city jails shall be exempt from
3 Article I of the Administrative Procedures Act with respect to:

- 4 a. prescribing internal management procedures for the
5 management of the state prisons, county jails and city
6 jails and for the management, supervision and control
7 of all incarcerated prisoners, and
- 8 b. prescribing internal management procedures for the
9 management of the probation and parole unit of the
10 Department of Corrections and for the supervision of
11 probationers and parolees.

12 11. The State Board of Education shall be exempt from Article I
13 of the Administrative Procedures Act with respect to prescribing
14 subject matter standards as provided for in Section 11-103.6a of
15 Title 70 of the Oklahoma Statutes.

16 B. As specified, the following agencies or classes of agency
17 activities are not required to comply with the provisions of Article
18 II of the Administrative Procedures Act:

- 19 1. The Oklahoma Tax Commission, except as provided in
20 subsection G of Section 1140 of Title 47 of the Oklahoma Statutes;
- 21 2. The Commission for Human Services;
- 22 3. The Oklahoma Ordnance Works Authority;
- 23 4. The Corporation Commission;
- 24 5. The Pardon and Parole Board;

1 6. The Midwestern Oklahoma Development Authority;

2 7. The Grand River Dam Authority;

3 8. The Northeast Oklahoma Public Facilities Authority;

4 9. The Council on Judicial Complaints;

5 10. The Board of Trustees of the Oklahoma College Savings Plan;

6 11. The supervisory or administrative agency of any penal,
7 mental, medical or eleemosynary institution, only with respect to
8 the institutional supervision, custody, control, care or treatment
9 of inmates, prisoners or patients therein; provided, that the
10 provisions of Article II shall apply to and govern all
11 administrative actions of the Oklahoma Alcohol Prevention, Training,
12 Treatment and Rehabilitation Authority;

13 12. The Board of Regents or employees of any university,
14 college, or other institution of higher learning;

15 13. The Oklahoma Horse Racing Commission, its employees or
16 agents only with respect to hearing and notice requirements on the
17 following classes of violations which are an imminent peril to the
18 public health, safety and welfare:

19 a. any rule regarding the running of a race,

20 b. any violation of medication laws and rules,

21 c. any suspension or revocation of an occupation license
22 by any racing jurisdiction recognized by the
23 Commission,

1 d. any assault or other destructive acts within

2 Commission-licensed premises,

3 e. any violation of prohibited devices, laws and rules,

4 or

5 f. any filing of false information;

6 14. The Commissioner of Public Safety only with respect to
7 driver license hearings and hearings conducted pursuant to the
8 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

9 15. The Administrator of the Department of Securities only with
10 respect to hearings conducted pursuant to provisions of the Oklahoma
11 Take-over Disclosure Act of 1985;

12 16. Hearings conducted by a public agency pursuant to Section
13 962 of Title 47 of the Oklahoma Statutes;

14 17. The Oklahoma Military Department;

15 18. The University Hospitals Authority, including all hospitals
16 or other institutions operated by the University Hospitals
17 Authority;

18 19. The Oklahoma Health Care Authority Board and the
19 Administrator of the Oklahoma Health Care Authority; and

20 20. The Oklahoma Office of Homeland Security.

21 SECTION 3. This act shall become effective November 1, 2021.

22 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
23 February 23, 2021 - DO PASS AS AMENDED
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