

An Act

ENROLLED HOUSE
BILL NO. 2098

By: O'Donnell and Caldwell
(Trey) of the House

and

Thompson of the Senate

An Act relating to motor license agents; enacting the 21st Century Motor Tag Agent Act; amending 47 O.S. 2011, Sections 1140, as last amended by Section 1, Chapter 289, O.S.L. 2018, 1141, 1142.1, 1143 and 1144 (47 O.S. Supp. 2018, Section 1140), which relate to motor license agents, office hours and fees; modifying motor license agent qualifications and requirements; modifying consanguinity- or affinity-based restrictions on ownership of motor license agent locations; modifying eligibility for appointment for motor license agents; broadening applicability of certain prohibition; increasing fees for certain violations; modifying notary and certain mailing fees; modifying office hours; eliminating Oklahoma Tax Commission authorization requirement; eliminating coordination of motor license agent office hours; providing for noncodification; providing an effective date; and declaring an emergency.

SUBJECT: 21st Century Motor Tag Agent Act

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "21st Century Motor Tag Agent Act".

SECTION 2. AMENDATORY 47 O.S. 2011, Section 1140, as last amended by Section 1, Chapter 289, O.S.L. 2018 (47 O.S. Supp. 2018, 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. 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. In counties with a population in excess of thirty thousand (30,000) persons according to the latest Federal Decennial Census, a requirement that operation of a motor license agency be the primary source of income for the 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~~ Tax Commission or an employee of the Oklahoma Tax Commission or any person related to a member of the Oklahoma ~~Legislature~~ Tax Commission or an employee of the 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. If the applicant is assuming the location of an existing or operating agency, the current agent may submit a letter

of resignation contingent upon the appointment of the applicant regardless of the population of the municipality in which the agency is located. 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.

B. After the necessary information has been forwarded to the Tax Commission, the Tax Commission or its designees may select applicants to be interviewed 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.

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

D. 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.

Motor license agents appointed pursuant to this section shall be subject to all laws relating to motor license agents and shall be subject to removal at the will of the Tax Commission.

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.

E. 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.

F. 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.

G. Any motor license agency operated by a motor license agent who has been charged with a felony shall be closed immediately. The Tax Commission shall determine whether the motor license agency shall be reopened and operated by the motor license agent. The determination shall be effected as soon as possible to prevent additional inconvenience to the public.

H. 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.

I. 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.

J. 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 3. AMENDATORY 47 O.S. 2011, Section 1141, is amended to read as follows:

Section 1141. It shall be unlawful for any person to display any sign or to advertise in any manner representing to the public that he or she is an official or authorized motor license agent of the state, or that he or she has authority to register motor vehicles and issue license plates therefor, unless such person is a

duly appointed and qualified motor license agent under the provisions of Section ~~43~~ 1140 of this ~~act~~ title; and it shall be unlawful for any person to solicit, accept or receive any gratuity or compensation for acting as a messenger or for acting as the agent or representative of another person in applying for the registration of a motor vehicle and obtaining the license plate therefor from the Oklahoma Tax Commission or from any official and authorized motor license agent, or to advertise, solicit, or in any manner offer to render such services for hire or compensation unless the motor license agent has appointed, authorized and approved said person to perform such acts and said person shall furnish to the motor license agent of the county in which such service is performed a surety bond in such amount as said motor license agent shall determine to be commensurate with the amount of money which may be involved at any one time.

Any person violating the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not exceeding one (1) year, or both. Each day that any such person advertises or in any manner offers to render such services to the public or to any person shall constitute a separate offense.

Nothing herein shall be construed as affecting or diminishing the responsibility and liability to the Commission of the official motor license agent or of his or her bond made to the Commission.

SECTION 4. AMENDATORY 47 O.S. 2011, Section 1142.1, is amended to read as follows:

Section 1142.1 A. It shall be unlawful for any motor license agent or any employee of such motor license agent to carry on a messenger service, courier service or pick up and delivery service for the recording of a security interest or for the registration of a motor vehicle or boat or a motor, or obtaining license plates and decals, or for the issuance of a certificate of title for any motor vehicle or boat or motor. Provided, nothing in this subsection shall be construed to prevent a motor license agent or any employee of such motor license agent from performing such services for the motor license agent's depository bank, when the motor license agent or his employee goes to the agent's depository bank to deposit tax monies into the agent's designated Oklahoma Tax Commission Motor License Agent Account. After September 1, 1991, the Oklahoma Tax Commission shall not designate or assign a motor license agent more

than one active Oklahoma Tax Commission Motor License Agent Account. Accounts designated prior to September 1, 1991, may remain active.

B. It shall be unlawful for any motor license agent to compensate in any manner a messenger service, courier service or pick up and delivery service or any one attempting to provide messenger service, courier service or pick up and delivery service for recording a security interest or for the registration of a motor vehicle or boat or motor, or obtaining license plates and decals, or for the issuance of a certificate of title for any motor vehicle or boat or motor.

C. A motor license agent who violates the provisions of this section shall be subject to a fine of ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Dollars (\$2,000.00) per occurrence and shall be removed immediately by the Oklahoma Tax Commission.

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

Section 1143. A. A motor license agent appointed under the provisions of this title shall retain as compensation those taxes and fees collected and retained pursuant to Section 1141.1 of this title, and shall additionally retain:

1. All amounts remaining from notary and mailing fees received by such agent, after payment of all costs of handling and mailing;
2. All profits from any concessions operated in the agent's office; and
3. All amounts collected pursuant to subsection H of Section 1111 of this title.

B. A motor license agent shall receive a fee ~~of not more than One Dollar (\$1.00)~~ as regulated in Title 49 of the Oklahoma Statutes for each document notarized ~~and a fee of fifty cents (\$0.50) for any documents mailed.~~

C. The Oklahoma Tax Commission shall initiate a mail order vehicle registration notification program, which shall consist of notification annually to all vehicle owners in this state of such time an owner shall register and license a vehicle as provided for in Section 1101 et seq. of this title. The notification issued by the Tax Commission shall include a breakdown of all charges to be

paid by the owner, other items deemed necessary by the Tax Commission and shall notify the owner of the option of paying registration fees and receiving the license plate or decal through the mail directly from the Tax Commission or of registering and receiving the license plate or decal from a motor license agent. On the back of such registration notification forms there shall be the address of the Oklahoma Tax Commission in large black type and an explanation of the apportionment of all license fees and penalties collected and their disposition. Such explanation shall include information as to all charges included in the total license fee and any fees or charges incident to the registration of a motor vehicle, to include all fees that a motor license agent is authorized to collect. If the owner chooses the option of receiving these services through the mail, either from the Tax Commission or the motor license agent, the owner shall then be instructed to pay the final total listed. The costs of mailing shall be ~~One Dollar~~ ~~(\$1.00)~~ the cost of postage plus One Dollar and twenty-five cents (\$1.25) for license plates, ~~fifty cents (\$0.50)~~ the cost of postage plus One Dollar (\$1.00) for decals and ~~fifty cents (\$0.50)~~ for the mailing of any other form, title, decal or device provided for in the Oklahoma Vehicle License and Registration Act. Provided however, the Tax Commission may adjust any mailing costs from time to time as it deems appropriate and as will allow for additional fees the U.S. Postal Service may charge.

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

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

F. A motor license agent, out of the taxes and fees collected and retained pursuant to Section 1141.1 of this title, shall obtain a faithful performance surety bond or cash bond in the amount of Thirty Thousand Dollars (\$30,000.00) or in such additional amount and form required by the Tax Commission or by the Oklahoma Vehicle License and Registration Act, a blanket surety bond or cash bond covering adequately all office personnel, necessary insurance, necessary office equipment and furniture, and other goods and

services essential to the proper operation of the motor license agency. Provided that the Tax Commission shall have the authority to lower such required surety bond to an amount that is commensurate with the amount of business conducted by the motor license agent, but in no event shall that amount be less than Five Thousand Dollars (\$5,000.00). Motor license agents shall obtain the surety bond or cash bond required by this section only during their first year of operation. Thereafter, the motor license agents shall be subject to the provisions of Section 1143.1 of this title.

SECTION 6. AMENDATORY 47 O.S. 2011, Section 1144, is amended to read as follows:

Section 1144. A. Payments for any required registration fees, license plates or decals or excise taxes except as otherwise provided by law, may be made as follows:

1. By the applicant's personal or company check if presented within the period of time required for purchase or renewal of the registration and license plates or decals. At the time of presentment, the motor license agent may utilize a check verification system provided by the Oklahoma Tax Commission to confirm that there are sufficient funds to pay the check. Upon notification that there are insufficient funds, the agent shall refuse to accept the check or deliver the license plate or decal. If an agent fails to utilize the check verification system and the check is returned for nonpayment, the agent shall not receive any fees for the transaction. No motor license agent shall be required to accept any check from any person during any penalty period relating to that person's registration; or

2. By a nationally recognized credit or debit card issued to the applicant. The Tax Commission may add an amount equal to the amount of the service charge incurred as a service charge for the acceptance of such credit card. For purposes of this paragraph, "nationally recognized credit or debit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services or anything else of value on credit which is accepted by over one thousand merchants in this state. The Tax Commission shall determine which nationally recognized credit or debit cards will be accepted by a motor license agent as payment for any required motor vehicle registration fees, license plates or decals or excise taxes.

Provided however the Tax Commission must ensure that no loss of state revenue will occur by the use of such card.

B. Each motor license agent's office shall be open a minimum of forty (40) hours per week, ~~of which four (4) such hours per week shall be in the evening hours or on Saturday, subject to the approval of the Tax Commission,~~ except during such weeks that contain a legal holiday prescribed by the statutes of this state. ~~Provided that the Tax Commission may authorize a motor license agent to stay open a lesser period of time if the Tax Commission is satisfied that the public is being properly served. Provided further, that there shall be at least one motor license agent in each county open the hours designated in this section.~~ All motor license agents shall post their hours in a conspicuous place for the public's information.

SECTION 7. This act shall become effective July 1, 2019.

SECTION 8. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 6th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____