An Act

ENROLLED HOUSE
BILL NO. 1516

By: Jackson, Virgin, Inman, Sherrer, Dorman, Floyd, Matthews and Scott of the House

and

Barrington and Shumate of the Senate

An Act relating to the Oklahoma Used Motor Vehicle and Parts Commission; creating the Oklahoma Crusher Act; defining terms; prohibiting operating business as a crusher without a license; providing exception for certain licensed scrap metal dealers; authorizing inspection of records of scrap metal dealers for certain purpose; stating eligibility for licensure; setting application requirements; requiring bond and service agent; providing for investigation and fees; allowing retention of investigative fee upon license denial; directing Commission to set fees by rule; describing contents of license; requiring display of license; prohibiting transfer of license; providing for license term and renewal; establishing procedure to acquire certain used vehicles; stating unauthorized sales of vehicles; directing report of vehicle purchases within certain time; providing for holding period following submission of report; setting contents of the report; exempting certain licensed business; prohibiting reassignment of title; providing for rules; granting Commission rulemaking authority; criminalizing certain acts; setting penalties; providing for injunctive relief; authorizing denial, suspension, revocation, or imposition of fine under certain conditions; providing for codification; and providing an effective date.

SUBJECT: Oklahoma Crusher Act

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Crusher Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Crusher Act:

1. "Commission" means the Oklahoma Used Motor Vehicle and Parts Commission;

2. "Crusher" means a person engaged in the business of crushing or shredding used motor vehicles, trailers, or nonmotorized recreational vehicles; and

3. "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity however organized.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. No person shall engage in business as a crusher without first obtaining a license from the Oklahoma Used Motor Vehicle and Parts Commission specifically authorizing engagement in such business.

B. A person licensed as a scrap metal dealer in this state who is engaged primarily in the business of a scrap metal dealer and who crushes vehicles only at its licensed scrap metal dealer location shall be exempt from the licensing requirements of this act. A person licensed as a scrap metal dealer who fails to keep records of crushed vehicles as required by the Scrap Metal Dealers Act shall not be entitled to the exemption herein. Any crusher who is an independent contractor employed to crush vehicles for a scrap metal

dealer shall not be exempt from the requirements of this act. Any law enforcement officer or employee of the Used Motor Vehicle and Parts Commission shall be authorized to inspect the records of any licensed scrap metal dealer pertaining to crushed vehicles to verify compliance with this provision.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. To be eligible for a crusher license, an applicant shall:

1. Be of good moral character;

2. Have net assets of at least Twenty-five Thousand Dollars ($25,000.00); and

3. Show that the crusher operation will be operated lawfully and fairly within the purpose of the Oklahoma Crusher Act.

B. The Commission shall find ineligible an applicant who:

1. Has a felony conviction which relates to the duties and responsibilities of the occupation of crusher, or has any felony conviction less than five (5) years before the date of application for a license;

2. Is unfit to conduct the business of a crusher as determined by the Commission, taking into consideration the business integrity, financial standing, moral character, or ability to conduct the business of a crusher of the applicant; and

3. Fails to provide any information requested by the Commission in any initial or renewal application for license.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Applications for a crusher license shall be under oath and shall state the full name and place of residence of the applicant. If the applicant has more than one member, the full name and residence of each member shall be stated. The application shall give the location of the business headquarters, and shall contain such relevant information as the Commission shall require.

B. Each applicant for a crusher license at the time of filing the application shall file with the Commission a bond in the amount of Twenty-five Thousand Dollars ($25,000.00) for each license with a surety company qualified to do business in this state. The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of the Oklahoma Crusher Act or any of the rules made by the Commission hereunder in the conduct of the business for which the applicant is licensed and will pay to the state and to any person or persons any and all amounts of money that may become due or owing to the state or to such person or persons from the obligor under and by virtue of the provisions of the Oklahoma Crusher Act during the time such bond is in effect. The bond shall run to the benefit of the state and of any person or persons who may have cause of action against the obligor of the bond under the provisions of the Oklahoma Crusher Act up to the maximum amount of the bond.

C. Each licensee shall maintain on file with the Commission a written appointment of a resident of this state as his or her agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this state. In case of noncompliance, such service may be made on the Commission.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of an application and bond and payment of the annual fee and an investigation fee, the Commission shall conduct an investigation. If the Commission finds that the financial responsibility, experience, character and general fitness of the applicant are such as to warrant belief that the business will be operated lawfully and fairly, within the purposes of this act, and the applicant meets the eligibility requirements of this act and the rules of the Commission, the Commission shall grant the application and issue to the applicant a license which will be evidence of the authority of the applicant to do business pursuant to the Oklahoma Crusher Act.

B. If the Commission does not find facts sufficient to warrant issuance of a license, the Commission may deny the application. In the event of denial of the application, the investigation fee shall

be retained by the Commission, but the annual license fee shall be returned to the applicant.

C. The Commission shall prescribe by rule a fee for each initial application, investigation fee, renewal application, late fee for renewals not received by June 1, and fee for each license change, duplicate license or returned check.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Each license shall state the name of the licensee and the address at which the business office is located and where the records of the business are to be permanently maintained. The license shall be displayed at the business location. The license shall not be transferable.

B. Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee, on or before June 1, shall pay the Commission an annual fee for the succeeding one-year licensing period, July 1 through June 30. If the annual fee remains unpaid by June 15, the license shall thereupon expire on June 30. If the renewal application is received after June 15, a late fee shall be charged.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Prior to the purchase of a used motor vehicle, trailer, or nonmotorized recreational vehicle, the crusher shall require the following proof of ownership from the person selling the used motor vehicle, trailer, or nonmotorized recreational vehicle:

1. A certificate of title in the name of the seller that shows no outstanding liens;

2. A notarized power of attorney from the individual on the certificate of title authorizing the seller to dispose of the vehicle on behalf of the owner;

3. A bill of sale from the owner as identified by the certificate of title to the person presenting the vehicle to be crushed or shredded;

4. A statement of ownership from the seller stating that the vehicle to be crushed was purchased from the lawful owner, accompanied by a bill of sale from the lawful owner including a statement that there are no outstanding liens on the vehicle, and a statement that the vehicle is inoperable or incapable of operation or use on the highway and has no resale value except as scrap; or

5. Paperwork from a licensed wrecker operator showing that the wrecker operator has properly foreclosed its lien on the used motor vehicle, trailer or nonmotorized recreational vehicle to be crushed or shredded, and that the person selling the vehicle is the owner of the vehicle as shown on the return of sale in the foreclosure form. Provided, if the paperwork is subsequently proven to be fraudulent or falsified by the wrecker operator, the license of the wrecker operator may be suspended or revoked.

B. A crusher shall not:

1. Accept any vehicle to be crushed or shredded from a person under the age of eighteen (18) years;

2. Buy a vehicle from a person unable to supply verification of identity by photo I.D. by either a state-issued identification card, driver license or federal-government-issued identification card or by readable fingerprint of right or left index finger on the purchase document to be retained in the records of the crusher; or

3. Crush or shred any vehicle purchased until making the report and waiting the time period required herein.

C. A crusher shall:

1. Make available a copy or report within three (3) days of any purchase of a vehicle to the local law enforcement agency of the municipality or other political subdivision in which the crusher is located or temporarily operating. Such copy or report shall be shown upon request to the representative of the Commission or to any authorized peace officer;

2. Hold the vehicle in the state and condition in which it was purchased for a period of three (3) days after submitting the report required in paragraph 1 of this subsection; and

3. Include in the report:

a. the name, address and telephone number of the crusher whereby the crusher may be immediately contacted,

b. the name, address, race, sex, weight, height, date of birth and identifying number of the seller as verified by either a state-issued identification card, driver license or federal-government-issued identification card or by readable fingerprint of right or left index finger on the purchase document to be retained in the records of the crusher, and

c. a description of the vehicle, the manufacturer of the vehicle, the vehicle identification numbers of the vehicle, and the date and time of the purchase of the vehicle.

D. A licensed automotive dismantler engaging the services of a crusher shall not be required to produce proof of ownership to the crusher before selling to the crusher vehicles or other property purchased by the automotive dismantler in the ordinary course of business.

E. A crusher shall not have the right of reassignment of a certificate of title.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Rulemaking Power. The Oklahoma Used Motor Vehicle and Parts Commission may adopt, amend and repeal such rules as are necessary for the enforcement of the provisions of the Oklahoma Crusher Act and consistent with its provisions.

B. Criminal Penalties.

1. Any person who engages in the business of operating as a crusher without first obtaining the license prescribed in the Oklahoma Crusher Act or any person who receives, obtains or possesses and crushes any vehicle or other property which the person knows to be subject to an outstanding lien shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not in excess of One Thousand Dollars ($1,000.00), by confinement in the county jail for not more than six (6) months, or by both.

2. Any person who engages in the business of operating as a crusher without first obtaining the license prescribed in the Oklahoma Crusher Act and who receives, obtains or possesses any vehicle or other property which he or she knows to be stolen shall be guilty of a felony offense of receiving, obtaining or possessing stolen property and, upon conviction, shall be subject to the penalties which may be imposed for such crime.

3. Any person selling a vehicle or other property to a crusher who uses false or altered identification or makes a false declaration of ownership or lien status as related to the provisions of the Oklahoma Crusher Act shall be guilty of a felony, and upon conviction shall be punished by imprisonment in the custody of the Department of Corrections for a term of not more than five (5) years, or in the county jail for a term of not more than one (1) year, or by a fine not exceeding One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

4. Any person who fails to repay a crusher the full amount received from the sale of a vehicle or other property after being officially notified by a peace officer or the Commission that the vehicle or other property the person sold to the crusher was stolen shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term of not to exceed six (6) months, or a fine not to exceed One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

C. Injunctive Action. The Commission may institute, in the name of the State of Oklahoma ex rel. Oklahoma Used Motor Vehicle and Parts Commission, any necessary action to enjoin any person, firm, or corporation from engaging in the business of a crusher without a license, or for any violations of this act. An injunction shall issue without the requirement of a bond of any kind from the state. The venue of any action authorized by this section shall be in the county wherein the business activity complained of is conducted.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592.10 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Used Motor Vehicle and Parts Commission may deny an application for a license, impose a fine not to exceed One Thousand Dollars ($1,000.00) per occurrence, or revoke or suspend a license

after it has been granted, when any provision of this act is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant or licensee, as the case may be;

2. For fraud practices or any material misstatement made by an applicant in any application for licensure pursuant to this act;

3. For willful failure to comply with any provisions of this act or with any rule promulgated by the Commission pursuant to this act;

4. Change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Continued or flagrant violation of any of the rules of the Commission promulgated pursuant to this act; or

6. Being a crusher or shredder who:

a. has committed any unlawful act which resulted in the revocation of any similar license in this state or another state,

b. has been convicted of a crime involving moral turpitude,

c. has committed a fraudulent act in buying, selling or otherwise dealing in used motor vehicles, trailers, or nonmotorized vehicles to be crushed or shredded, or disposed of as crushed or shredded,

d. has engaged in business under a past or present license in such a manner as to cause injury to the public or to those with whom the licensee is dealing, or

e. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license.

SECTION 11. This act shall become effective November 1, 2014.

Passed the House of Representatives the 21st day of May, 2014.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of May, 2014.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22nd day of May, 2014, at 6:37 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 3rd day of June, 2014, at 10:21 o'clock A M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 3rd day of June, 2014, at 1:38 o'clock P. M.

By: Chris Benge