SHORT TITLE: Motor vehicles; providing for primary law enforcement authority on certain highways; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1017 By: Shurden

AS INTRODUCEDAn Act relating to motor vehicles; amending 47 O.S. 1991, Section 2-117, which relates to the police authority of the Department of Public Safety; providing for primary law enforcement authority on certain additional highways in this state; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 2-117, is amended to read as follows:

Section 2-117. The Commissioner and each officer of the Department as ~~he~~ shall ~~designate~~ be designated and all members of the Oklahoma Highway Patrol Division shall have the ~~power~~ following powers and duties:

1. Of peace officers for the purpose of enforcing the provisions of the Uniform Vehicle Code and any other law regulating the operation of vehicles or the use of the highways, including the Motor Carriers Act of this state or any other laws of this state by the direction of the Governor.

2. The officers and members of the Oklahoma Highway Patrol Division are hereby declared to be peace officers of the State of Oklahoma and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of the state. The members of the Oklahoma Highway Patrol Division shall have the powers now or hereafter vested by law in peace officers except the serving or

execution of civil process. The members of the Oklahoma Highway Patrol Division shall have authority to arrest without writ, rule, order or process any person detected by them in the act of violating any law of the state. When a member of the Oklahoma Highway Patrol Division is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the district or territory over which the jurisdiction of such member of the Oklahoma Highway Patrol Division extends, ~~he~~ the officer shall be and is hereby authorized to continue in pursuit of such violator or suspected violator into whatever part of the state may be reasonably necessary to effect the apprehension and arrest of the same, and to arrest such violator or suspected violator wherever he or she may be overtaken, and to assist in the location of stolen property, including livestock and poultry or the carcasses thereof, and to make any inspection necessary of any truck, trailer or contents thereof in connection therewith.

The powers and duties conferred on the members and officers of the Oklahoma Highway Patrol Division shall not limit to the powers and duties of sheriffs or other peace officers of the state or any political subdivision of the state~~,~~; provided however, that the Oklahoma Highway Patrol Division shall have primary law enforcement authority respecting traffic-related offenses upon the National System of Interstate and Defense Highways, and those portions of the federal-aid primary highways and the state highway system located on the outskirts and within the boundaries of any municipality. The outskirts of a municipality shall be determined by reference to the following factors:

a. low land use density,

b. absence of any school or residential subdivision requiring direct ingress or egress from the highway,

c. low volume of traffic on the highway, and

d. a scarcity of retail or commercial business abutting the highway.

The Troop Commander in charge of a highway patrol troop may designate such portions of the federal-aid primary highways and the state highway system in the service area of the troop for special traffic-related enforcement by the Oklahoma Highway Patrol Division and issue a written notice to any other law enforcement agency affected thereby. Upon receipt of such notice, the affected law enforcement agency shall not regulate traffic nor enforce traffic-related statutes or ordinances upon such portions of federal-aid primary highways and the state highway system without prior coordination and written approval by the Troop Commander who issued the notice. The Troop Commander issuing the notice may require closer spacing of traffic signs or designate speed limits on such highways as a precondition for such prior approval. The Commissioner may designate any portion of the National System of Interstate and Defense Highways for special traffic-related enforcement by the Oklahoma Highway Patrol Division and issue a written notice to any other law enforcement agency affected thereby. Upon receipt of such notice, the affected law enforcement agency shall not regulate traffic nor enforce traffic-related statutes or ordinances upon such designated portion of the National System of Interstate and Defense Highways without prior coordination and written approval of the Commissioner. This ~~section~~ paragraph shall not limit a member of the Oklahoma Highway Patrol Division from requesting assistance from any other law enforcement agency nor limit officers of such agency from rendering the requested assistance. The officer and the law enforcement agency responding to the request of the member of the Oklahoma Highway Patrol Division

or sheriff's department shall have the same rights and immunities as are possessed by the Oklahoma Highway Patrol Division.

3. At all times to direct all traffic in conformance with law and, in the event of a fire, or other emergency, or to expedite traffic, or to insure safety, to direct traffic as conditions may require, notwithstanding the provisions of law. A member of the Oklahoma Highway Patrol Division shall have the authority, and it shall be ~~his~~ a duty, to require satisfactory proof of ownership of the contents of any motor vehicle as defined in ~~this act~~ Section 2-101 et seq. of this title, including livestock, poultry or the carcasses thereof. In the event that the proof of ownership is not satisfactory, it shall be the duty of a member of the Oklahoma Highway Patrol Division to take the motor vehicle, driver and the contents of the motor vehicle into custody and deliver same to the sheriff of the county wherein the cargo, motor vehicle and driver are taken into custody.

4. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of the Uniform Vehicle Code, or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver's license and the registration card issued for the vehicle and submit to an inspection of such vehicle, the registration plates and registration card thereon or to any inspection and test of the equipment of such vehicle.

5. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

6. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways and bench warrants issued for nonpayment of fines and costs for moving traffic violations.

7. To investigate traffic accidents and secure testimony of witnesses or of persons involved.

8. To investigate reported thefts of motor vehicles, trailers and semitrailers.

9. To stop and inspect any motor vehicle or trailer for such mechanical tests as may be prescribed by the Commissioner to determine the vehicle's roadability. Any vehicle which may be found to be unsafe for use on the highways may be ordered removed from said highway until such alterations or repairs have been made that will render said vehicle serviceable for use on the highway. To stop and inspect the contents of all motor vehicles to ascertain whether or not the provisions of all general laws are being observed.

10. It shall be the duty of the Oklahoma Highway Patrol Division to enforce the laws of the state relating to the registration and licensing of motor vehicles; to enforce the laws relating to the operation and use of vehicles on the highway; to enforce and prevent, on the roads of the state highway system, the violation of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways; to investigate and report to the Corporation Commission and the Oklahoma Tax Commission violation of their rules and regulations and the laws governing the transportation of persons and property by motor transportation companies and all other motor carriers for hire; to investigate and report violations of all laws relating to

the collection of excise taxes on motor vehicle fuels; and regulate the movement of traffic on the roads of the state highway system. It shall be the duty of the Oklahoma Highway Patrol Division, whenever possible, to determine persons causing or responsible for the breaking, damaging, or destruction of any improved surfaced roadway, structure, sign, marker, guardrail, or any other appurtenance constructed or maintained by the Department of Transportation, and to arrest persons responsible therefor and to bring them before the proper officials for prosecution. It shall be the duty of the Oklahoma Highway Patrol Division to investigate and report all motor vehicle accidents on the state highway system outside of incorporated municipalities.

Whenever any person is arrested by a ~~patrolman~~ patrol officer for a traffic violation the provisions of Sections 16-101 through 16-114 of this title shall apply.

11. No state official shall have any power, right, or authority to command, order, or direct any member of the Oklahoma Highway Patrol Division to perform any duty or service contrary to the provisions of the Uniform Vehicle Code.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and 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.

45-2-1812 NP