

ENROLLED HOUSE
BILL NO. 1212

By: Phillips and Graves of the
House

and

Coffee of the Senate

An Act relating to law enforcement vehicles; making declaration of danger to public health and safety; prohibiting use by municipal police departments of unmarked cars for routine traffic enforcement; stating exceptions; amending 19 O.S. 1991, Section 180.43, as last amended by Section 1, Chapter 91, O.S.L. 1994 (19 O.S. Supp. 1998, Section 180.43), which relates to automobiles used by sheriffs; making declaration of danger to public health and safety; prohibiting use of unmarked cars for routine traffic enforcement; stating exceptions; amending 47 O.S. 1991, Section 12-218, as last amended by Section 1, Chapter 55, O.S.L. 1998 (47 O.S. Supp. 1998, Section 12-218), which relates to audible and visible signals on vehicles; providing description of lights to be used on certain unmarked vehicles; amending 21 O.S. 1991, Section 1533, as last amended by Section 8, Chapter 2, 1st Extraordinary Session, O.S.L. 1998 (21 O.S. Supp. 1998, Section 1533), which relates to falsely personating certain persons; modifying means of falsely personating a law enforcement officer; modifying penalty; providing for codification; providing an effective date; and declaring an emergency.

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 34-106 of Title 11, unless there is created a duplication in numbering, reads as follows:

The State of Oklahoma hereby declares and states that the increased number of persons impersonating law enforcement officers by making routine traffic stops while using unmarked cars is a threat to the public health and safety of all the citizens of the State of Oklahoma; therefore it shall be unlawful for any municipal police department to use any vehicle which is not clearly marked as a law enforcement vehicle for routine traffic enforcement as provided in Section 12-218 of Title 47 of the Oklahoma Statutes. In addition to Section 12-218 of Title 47 of the Oklahoma Statutes, the peace officer operating the law enforcement vehicle for routine traffic stops shall be dressed in the official uniform including shoulder patches, badge, and any other identifying insignias normally used by the employing law enforcement agency.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 180.43, as last amended by Section 1, Chapter 91, O.S.L. 1994 (19 O.S. Supp. 1998, Section 180.43), is amended to read as follows:

Section 180.43 A. Each sheriff shall be paid actual expenses by the county for keeping, feeding, and maintaining prisoners, not to exceed the sum of Three Dollars and fifty cents (\$3.50) per day for each prisoner for the first twenty prisoners and Two Dollars (\$2.00) per day for each additional prisoner. The claim for said expenses shall be filed with and approved or disapproved by the board of county commissioners as other claims, and the sheriff shall receive no other compensation for said services. The sheriff shall file an annual report with the board of county commissioners not later than January 15 of each year. The State Auditor and Inspector shall conduct an audit of the report as on other public records of the county.

B. Each county sheriff may contract with the Department of Justice of the United States of America, the Department of Corrections, or any municipality of this state for the feeding, care, housing, and upkeep of federal, state, or municipal prisoners, or alien detainees incarcerated in the county jail. Any funds received pursuant to said contract shall be the funds of the county where the federal, state, or municipal prisoners, or alien detainees are incarcerated and shall be deposited in a separate revolving fund with the county treasurer. All purchases made pursuant to the provisions of this subsection shall be made pursuant to the purchasing procedures specified in Sections 1500 through 1505 of this title, including the use of blanket purchase orders as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes. The sheriff shall be permitted to expend any surplus in the revolving fund for administering expenses for salaries, training, equipment, or travel, or for capital expenditures.

The claim for said expenses shall be filed with and allowed by the board of county commissioners as other claims. The sheriff shall receive no compensation for said services. The sheriff shall file an annual report with the board of county commissioners not later than January 15 of each year. The State Auditor and Inspector shall conduct an audit of the report as on other public records of the county.

C. In lieu of the travel reimbursement or monthly travel allowance provided for by law, the board of county commissioners may purchase and provide for the operation, maintenance, insurance, equipping, and repair of an automobile for each county commissioner to be used in performing the duties of his office. In lieu of the travel reimbursement or monthly travel allowance provided for by law, the board of county commissioners, with the concurrence of the county sheriff, may purchase and provide for the operation, maintenance, insurance, equipping, and repair of automobiles for the use of the sheriff in performing the duties of his office. Any automobile purchased pursuant to the authority granted in this section shall be purchased by competitive bids. The use of any said automobile for private or personal purposes is hereby prohibited. In any county having a population of at least three hundred fifty thousand (350,000), where it is determined by the sheriff to be more economical and advantageous to the county, the sheriff may establish a monthly automobile allowance of not more than Four Hundred Dollars (\$400.00) per month in lieu of the mileage per mile for in-county

driving as authorized in this section. Any travel reimbursement other than in-county driving as provided for in this section shall be for actual and necessary expenses as provided for in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. Any person violating the provisions of this subsection, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Hundred Dollars (\$100.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both said fine and imprisonment, and in addition thereto shall be discharged from county employment.

D. The State of Oklahoma hereby declares and states that the increased number of persons impersonating law enforcement officers by making routine traffic stops while using unmarked cars is a threat to the public health and safety of all of the citizens of the State of Oklahoma; therefore it shall be unlawful for any county sheriff, deputy sheriff or reserve deputy sheriff to use any vehicle which is not clearly marked as a law enforcement vehicle for routine traffic enforcement as provided in Section 12-218 of Title 47 of the Oklahoma Statutes. In addition to Section 12-218 of Title 47 of the Oklahoma Statutes, the peace officer operating the law enforcement vehicle for routine traffic stops shall be dressed in the official uniform including shoulder patches, badge, and any other identifying insignias normally used by the employing law enforcement agency.

E. Each county sheriff may operate, or contract the operation of, a commissary for the benefit of persons lawfully confined in the county jail under the custody of the county sheriff. Any funds received pursuant to said operations shall be the funds of the county where the persons are incarcerated and shall be deposited in the Sheriff's Commissary Account. The sheriff shall be permitted to expend the funds to improve or provide jail services. The sheriff shall be permitted to expend any surplus in the Sheriff's Commissary Account for administering expenses for training equipment, travel or for capital expenditures. The claims for expenses shall be filed with and allowed by the board of county commissioners in the same manner as other claims. The sheriff shall receive no compensation for the operation of said commissary. The sheriff shall file an annual report on any said commissary under his or her operation no later than January 15 of each year. The State Auditor and Inspector shall conduct an audit of the report in the same manner as other public records of the county. Nothing in this subsection shall circumvent the provisions of Section 73 of Title 7 of the Oklahoma Statutes.

~~E.~~ F. Each county sheriff may operate, or contract the operation of, a telephone system for the benefit of persons lawfully confined in the county jail under the custody of the county sheriff. Any funds received pursuant to said operations shall be the funds of the county where the persons are incarcerated and shall be deposited in the Sheriff's Service Fee Account. Such funds may be expended according to the guidelines previously established for expenditures from the general fund. The claims for expenses shall be filed with and allowed by the board of county commissioners in the same manner as other claims.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 12-218, as last amended by Section 1, Chapter 55, O.S.L. 1998 (47 O.S. Supp. 1998, Section 12-218), is amended to read as follows:

Section 2-218. A. Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this ~~act~~ title, be equipped with a siren, exhaust whistle or bell capable of giving an audible signal.

B. Every school bus used for transportation of school children and every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red, or for authorized emergency vehicles, flashing red or blue lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred (500) feet in normal sunlight or, as an alternative, authorized emergency vehicles may use one red or blue signal lamp so located at or near the top of the vehicle which when lighted is visible for a distance of five hundred (500) feet in normal sunlight both to the front and to the rear of the vehicle.

C. A law enforcement vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately-flashing red lights specified herein. An unmarked vehicle used as a law enforcement vehicle for routine traffic enforcement shall be equipped with the following combination of lights:

1. Three flashing red, blue, or a combination of red and blue lights emitting the flashing lights to the front of the vehicle;

2. Two flashing white lights emitting the flashing white lights to the front of the vehicle;

3. Flashing red, blue, white or any combination of red, blue or white lights placed at and emitting the flashing lights from the four corners of the vehicle so that they are visible for three hundred sixty (360) degrees; and

4. One flashing red, blue, yellow, or any combination of red, blue, or yellow lights emitting the flashing light to the rear of the vehicle.

D. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in Sections 11-405 and 11-705 of this act.

E. It shall be unlawful for any person to use audible signal equipment from a motor vehicle for the purpose of causing any other motor vehicle operator to yield right-of-way and stop. The provisions of this subsection shall not apply to vehicles of any fire department, fire patrol, law enforcement vehicles, ambulances, or other authorized emergency vehicles.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 1533, as last amended by Section 8, Chapter 2, 1st Extraordinary Session, O.S.L. 1998 (21 O.S. Supp. 1998, Section 1533), is amended to read as follows:

Section 1533. A. Except as provided in subsection B of this section, every person who falsely personates any public officer, civil or military, any fireman, any law enforcement officer, any

emergency medical technician or other emergency medical care provider, or any private individual having special authority by law to perform any act affecting the rights or interests of another, or who assumes, without authority, any uniform or badge by which such officers or persons are usually distinguished, and in such assumed character does any act whereby another person is injured, defrauded, harassed, vexed or annoyed, upon conviction, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

B. Every person who falsely personates any public officer or any law enforcement officer in connection with or relating to any sham legal process shall, upon conviction, be guilty of a felony. Beginning July 1, 1999, a violation of this subsection shall be a schedule F felony. The fine for a violation of this subsection shall not exceed Five Thousand Dollars (\$5,000.00).

C. Every person who falsely asserts authority of law not provided for by federal or state law in connection with any sham legal process shall, upon conviction, be guilty of a felony. Beginning July 1, 1999, a violation of this subsection shall be a schedule F felony. The fine for a violation of this subsection shall not exceed Five Thousand Dollars (\$5,000.00).

D. Every person who, while acting falsely in asserting authority of law, attempts to intimidate or hinder a public official or law enforcement officer in the discharge of official duties by means of threats, harassment, physical abuse, or use of sham legal process, shall be guilty of a felony. Beginning July 1, 1999, a violation of this subsection shall be a schedule F felony. The fine for a violation of this subsection shall not exceed Five Thousand Dollars (\$5,000.00).

E. Any person who, without authority under federal or state law, acts as a supreme court justice, a district court judge, an associate district judge, a special judge, a magistrate, a clerk of the court or deputy, a notary public, a juror or other official holding authority to determine a controversy or adjudicate the rights or interests of others, or signs a document in such capacity, shall be guilty of a felony. Beginning July 1, 1999, a violation of this subsection shall be a schedule F felony. The fine for a violation of this subsection shall not exceed Five Thousand Dollars (\$5,000.00).

F. Every person who uses any motor vehicle or motor-driven cycle usually distinguished as a law enforcement vehicle or equips any motor vehicle or motor-driven cycle with any spot lamps, audible sirens, or flashing lights, in violation of Sections 12-217, 12-218 or 12-227 of Title 47 of the Oklahoma Statutes, or in any other manner uses any motor vehicle or motor-driven cycle for the purpose of falsely personating a law enforcement officer and who in such assumed character commits any act whereby another person is injured, defrauded, harassed, vexed or annoyed shall, upon conviction, be guilty of a ~~misdemeanor~~ felony punishable by imprisonment in the ~~county jail custody of the Department of Corrections~~ not exceeding one (1) year ten (10) years, or by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

G. As used in this section:

1. "Sham legal process" means the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, and purports to do any of the following:

- a. to be a summons, subpoena, judgment, arrest warrant, search warrant, or other order of a court recognized by the laws of this state, a law enforcement officer commissioned pursuant to state or federal law or the law of a federally recognized Indian tribe, or a legislative, executive, or administrative agency established by state or federal law or the law of a federally recognized Indian tribe,
- b. to assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights, duties, powers, or privileges of any person or property, or
- c. to require or authorize the search, seizure, indictment, arrest, trial, or sentencing of any person or property; and

2. "Lawfully issued" means adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, or a political subdivision of a state.

H. It shall not be a defense to a prosecution under subsection B, C, D or E of this section that:

1. The recipient of the sham legal process did not accept or believe in the authority falsely asserted in the sham legal process;

2. The person violating subsection B, C, D or E of this section does not believe in the jurisdiction or authority of this state or of the United States government; or

3. The office the person violating subsection B, C, D or E of this section purports to hold does not exist or is not an official office recognized by state or federal law.

SECTION 5. This act shall become effective July 1, 1999.

SECTION 6. 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.

Passed the House of Representatives the 29th day of March, 1999.

Speaker of the House of
Representatives

Passed the Senate the 23rd day of March, 1999.

President of the Senate