

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 228

By: Shurden

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 2-117, as amended by Section 4, Chapter 324, O.S.L. 1996 and 153, as amended by Section 1, Chapter 181, O.S.L. 1993 (47 O.S. Supp. 1998, Sections 2-117 and 153), which relate to the powers and duties of the Department of Public Safety; clarifying language; requiring law enforcement agencies to submit a plan for special traffic-related enforcement; requiring written approval from Commissioner; providing for withdrawal of approval at any time; limiting amended plan of action without approval of the Commissioner; authorizing unmarked vehicles for certain special enforcement actions; requiring Commissioner to submit a plan of action to the Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives; limiting amended plan of action without submitting an amended plan to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 2-117, as amended by Section 4, Chapter 324, O.S.L. 1996 (47 O.S. Supp. 1998, Section 2-117), is amended to read as follows:

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

1. Of peace officers for the purpose of enforcing the provisions of ~~the Uniform Vehicle Code~~ this title 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 Commissioner, designated commissioned officers and ~~members~~ officers 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~~ officers 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~~ officers 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~~ an officer 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~~ officer of the Oklahoma Highway Patrol Division extends, 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 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 may have special law enforcement authority on those portions of the federal-aid primary highways and the state highway system which are located on the

outskirts and are within the boundaries of any municipality, and designated by the Commissioner of Public Safety for such special law enforcement authority. The outskirts of a municipality may 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 Commissioner may designate any portion of the National System of Interstate and Defense Highways, and those portions of the federal-aid primary highways and the state highway system which are located on the outskirts and are within the boundaries of any municipality, as ~~hereinbefore~~ defined above 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 or such designated portions of the federal-aid primary highways and the state highway system without prior coordination and written approval of the Commissioner. Nothing in this section shall limit ~~a member~~ an officer 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~~ officer 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. Any law enforcement agency desiring to perform any special traffic-related

enforcement on any portion of the National System of Interstate and Defense Highways, the federal-aid primary highways, or the state highway system which are located within the boundaries, including those on the outskirts of any municipality, as defined above, shall submit a plan of action to the Commissioner detailing the type of enforcement, the method of enforcement, the beginning and ending dates during which the enforcement will be performed, and any other information the Commissioner deems necessary to evaluate the plan of action. Such special traffic-related enforcement shall not commence until the law enforcement agency receives written approval from the Commissioner. Provided, the Commissioner may withdraw approval by written notice to the law enforcement agency at any time and for any reason. Upon receipt of a withdrawal notice from the Commissioner, the affected law enforcement agency shall immediately cease the special traffic-related enforcement. Upon receipt of written approval to perform the special traffic-related enforcement, the law enforcement agency shall not add to, step up or otherwise enhance such enforcement detailed in the plan of action submitted to and approved by the Commissioner without first submitting an amended plan of action to and receiving written approval from the Commissioner.

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~~ An officer of the Oklahoma Highway Patrol Division shall have the authority, and it shall be the ~~member's~~ officer's duty, to require satisfactory proof of ownership of the contents of any motor vehicle as defined in 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~~ the officer 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 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~~ officer of the Oklahoma

Highway Patrol Division to perform any duty or service contrary to the provisions of the ~~Uniform Vehicle Code~~ laws of this state.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 153, as amended by Section 1, Chapter 181, O.S.L. 1993 (47 O.S. Supp. 1998, Section 153), is amended to read as follows:

Section 153. A. It shall be unlawful for any person to drive any state-owned automobile at any time and for any purpose, on any street or highway within this state, unless the provisions of Section 151 of this title have been strictly complied with, provided, however, the Commissioner of the Department of Public Safety is hereby authorized to set aside automobiles for use by the Department so that the same may be available to the Department without identifying marks thereon. These vehicles shall not be used for the routine enforcement of traffic enforcement offenses, except as provided in subsection B of this section.

B. The Commissioner may direct the Oklahoma Highway Patrol to perform special enforcement actions using unmarked vehicles on any portion of the National System of Interstate and Defense Highways, the federal-aid primary highways, or the state highway system, including those highways which are located within the boundaries, including those on the outskirts of any municipality, as defined in Section 2-117 of this title. Before commencing such special enforcement actions, the Commissioner shall submit a plan of action to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives detailing the type of enforcement, the method of enforcement, the beginning and ending dates during which the enforcement will be performed, and any other information the Commissioner deems necessary to describe the plan of action. The Commissioner may withdraw the plan of action at any time and for any reason upon written notice to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Commissioner shall not add to, step up or

otherwise enhance such special enforcement detailed in the plan of  
action without first submitting an amended plan of action to the  
Governor, the President Pro Tempore of the Senate and the Speaker of  
the House of Representatives.

SECTION 3. This act shall become effective November 1, 1999.

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