

ENROLLED HOUSE
BILL NO. 1692

By: Dunegan, Corn, Webb, Wells,
Nance and Roan of the House

and

Wilkerson of the Senate

An Act relating to the Department of Public Safety; amending 47 O.S. 1991, Section 2-105, as last amended by Section 1, Chapter 378, O.S.L. 2000 (47 O.S. Supp. 2000, Section 2-105), which relates to qualifications for Highway Patrolman; modifying maximum age for certain purposes; amending 47 O.S. 1991, Section 2-105.4, as last amended by Section 10, Chapter 37, O.S.L. 2000 (47 O.S. Supp. 2000, Section 2-105.4), which relates to Highway Patrol salaries; establishing new rank; establishing stipend to be paid to certain employees; amending Section 6, Chapter 245, O.S.L. 1998, as last amended by Section 2, Chapter 195, O.S.L. 2000 and Section 7, Chapter 245, O.S.L. 1998, as last amended by Section 2, Chapter 378, O.S.L. 2000 (47 O.S. Supp. 2000, Sections 2-105.6 and 2-105.7), which relate to salaries for Lake Patrol and Capitol Patrol; creating new positions; prohibiting promotions to certain position; amending Section 3, Chapter 378, O.S.L. 2000 (47 O.S. Supp. 2000, Section 309.8), as renumbered by Section 18 of Enrolled Senate Bill No. 539 of the 1st Session of the 48th Oklahoma Legislature, which relates to prior service credit; removing certain restrictions; requiring retroactive pay for certain persons; amending 47 O.S. 1991, Sections 11-801, as last amended by Section 1 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, 11-807 and 11-901, as last amended by Section 2 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, which relate to excess speed and reckless driving; eliminating requirement to forward certain fine monies to Department of Public Safety; modifying penalty; modifying minimum fine amounts; amending 47 O.S. 1991, Section 11-902, as last amended by Section 3 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, which relates to driving under the influence of alcohol; eliminating minimum fines; eliminating requirement to forward certain monies to Department of Public Safety; amending 47 O.S. 1991, Section 17-101, as last amended by Section 5 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, which relates to criminal penalties; modifying amount of minimum fines; eliminating requirement that certain monies be forwarded to Department of Public Safety; defining terms;

establishing penalty assessment for conviction of certain offenses; establishing collection procedures; requiring driver to change lanes under certain circumstances; providing for codification; providing for noncodification; providing for recodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 2-105, as last amended by Section 1, Chapter 378, O.S.L. 2000 (47 O.S. Supp. 2000, Section 2-105), is amended to read as follows:

Section 2-105. A. The Commissioner, subject to the Oklahoma Personnel Act, Section 840-1.1 et seq. of Title 74 of the Oklahoma Statutes, shall appoint:

1. A Chief of the Oklahoma Highway Patrol Division with the rank of Colonel, Assistant Chief of the Oklahoma Highway Patrol Division with the rank of Lieutenant Colonel, and subordinate officers and employees of the Oklahoma Highway Patrol Division, including Colonels, Majors, Captains, First Lieutenants, Supervisors with the rank of Second Lieutenant, Sergeants, and Highway Patrolmen with the rank of Trooper, who shall comprise the Oklahoma Highway Patrol Division of the Department of Public Safety;

2. A First Lieutenant, Supervisors with the rank of Second Lieutenant, Sergeants, and Patrolmen who shall comprise the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety;

3. A First Lieutenant, Supervisors with the rank of Second Lieutenant, Sergeants, and Patrolmen, who shall comprise the Capitol Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety; and

4. A Director of the Communications Division with the rank of Captain, Communications Coordinators with the rank of First Lieutenant, Communications Superintendents with the rank of Second Lieutenant, Communications Supervisors with the rank of Sergeant, Communications Dispatchers, Radio Technicians and Tower Maintenance Officers who shall comprise the Communications Division of the Department of Public Safety.

B. 1. The Commissioner, when appointing commissioned officers and employees to the positions set out in subsection A of this section, shall determine, in consultation with the Administrator of the Office of Personnel Management, minimum qualifications and shall select such officers and employees only after examinations to determine their physical and mental qualifications for such positions. The content of the examinations shall be prescribed by the Commissioner, and all such appointees shall satisfactorily complete a course of training in operations and procedures as prescribed by the Commissioner.

2. No person shall be appointed to any position set out in subsection A of this section unless the person is a citizen of the United States of America, of good moral character, and:

a. for commissioned officer positions, shall be not less than twenty-one (21) years of age nor more than ~~thirty-five (35)~~ thirty-seven (37) years of age, and shall possess:

(1) ~~for any person appointed to the Oklahoma Highway Patrol Division on or after January 1, 1999,~~ an associate's degree or a minimum of sixty-two (62) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions,

(2) for any person appointed to the Oklahoma Highway Patrol Division on or after July 1, 2004:

i. a bachelor's degree from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions, or

ii. an associate's degree or a minimum of sixty-two (62) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions and at least two (2) years' experience as a Council on Law Enforcement Education and Training (C.L.E.E.T.) certified law enforcement officer, or

b. for any such position in the Communications Division, a person shall be at least twenty (20) years of age and shall possess a high school diploma or General Educational Development equivalency certificate; shall possess either six (6) months of previous experience as a dispatcher or fifteen (15) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions.

3. No commissioned officer of the Department shall, while in such position, be a candidate for any political office or take part in or contribute any money or other thing of value, directly or indirectly, to any political campaign or to any candidate for public office. Anyone convicted of violating the provisions of this paragraph shall be guilty of a misdemeanor and shall be punished as provided by law.

4. The Commissioner or any employee of the Department shall not be a candidate for any political office, or in any way be active or participate in any political contest of any Primary, General, or Special Election, except to cast a ballot. No commissioned officer of the Department, while in the performance of the officer's assigned duty of providing security and protection, shall be considered as participating in a political campaign. The provisions of this paragraph shall not be construed to preclude a commissioned officer of the Oklahoma Highway Patrol Division of the Department of Public Safety from being a candidate for a position on a local board of education.

5. ~~Drunkenness~~ Drunkenness or being under the influence of intoxicating liquors substances shall be sufficient grounds for the removal of any commissioned officer of the Department, in and by the manner provided for in this section.

C. 1. Upon initial appointment to the position of Highway Patrolman, Patrolman or Communications Dispatcher, the appointed employee shall be required to serve an initial probationary period of twelve (12) months. The Commissioner may extend the probationary period for up to three (3) additional months provided that the employee and the Office of Personnel Management are notified in writing as to such action and the reasons therefor. During such probationary period, the employee may be terminated at any time and for any reason at the discretion of the Commissioner. Retention in the service after expiration of the initial probationary period shall entitle such employee to be classified as a permanent employee and the employee shall be so classified. No permanent employee may be discharged or removed except as provided for in this section.

2. A commissioned officer of the Oklahoma Highway Patrol Division may be promoted during the initial probationary period if such officer satisfactorily completes all training requirements prescribed by the Commissioner.

D. 1. No permanent employee, as provided for in this section, who is a commissioned officer of the Department, may be suspended without pay or dismissed unless the employee has been notified in writing by the Commissioner of such intended action and the reasons therefor. No such notice shall be given by the Commissioner unless sworn charges or statements have been obtained to justify the action.

2. Whenever such charges are preferred, the Commissioner may suspend the accused pending the hearing and final determination of such charges. If the charges are not sustained in whole or in part, the accused shall be entitled to pay during the period of such suspension. If the charges are sustained in whole or in part, the accused shall not receive any pay for the period of such suspension.

3. Commissioned officers of the Department of Public Safety are not entitled to appeal interagency transfer to the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act, Section 840-1.1 et seq. of Title 74 of the Oklahoma Statutes, unless transfer is in violation of Section 840-2.5 or 840-2.9 of Title 74 of the Oklahoma Statutes.

4. The Department of Public Safety shall follow the uniform grievance procedure established and adopted by the Office of

Personnel Management for permanent classified employees, except for those employees who are commissioned officers of the Department. The Department of Public Safety shall establish and adopt a proprietary grievance procedure for commissioned officers of the Department which is otherwise in compliance with the provisions of Section 840-6.2 of Title 74 of the Oklahoma Statutes.

E. 1. The Commissioner is hereby authorized to purchase and issue uniforms and necessary equipment for all commissioned officers of the Highway Patrol Division of the Department. All uniforms and equipment shall be used only in the performance of the official duties of such officers and shall remain the property of the Department, except as provided in Section 2-313 of this title.

2. Each ~~of said~~ commissioned ~~officers assigned to~~ officer of the Highway Patrol Division of the Department of Public Safety shall be entitled to ~~traveling, telephone, and telegraph~~ reimbursement of expenses pursuant to the State Travel Reimbursement Act while away from the ~~city or town~~ assigned area of the officer as designated by the Chief of the Oklahoma Highway Patrol Division as headquarters, when such expense is incurred in the service of the state.

F. The position of Chief of the Oklahoma Highway Patrol Division shall be filled from the body of commissioned officers of the Oklahoma Highway Patrol Division and appointment to said position shall be based on qualifications, previous record as a commissioned officer of the Oklahoma Highway Patrol Division, length of service, and efficiency of service performed.

G. The Commissioner of Public Safety is hereby authorized to send employees of the Department of Public Safety to such schools as Northwestern University Traffic Institute, Northwestern University Police Administrator's Institute, the National Police Academy conducted by the Federal Bureau of Investigation, or to any other such schools of similar training which would be conducive to improving the efficiency of the Oklahoma Highway Patrol Division and the Department of Public Safety.

H. 1. Any former commissioned officer of the Department whose separation from the Department was at such officer's own request and not a result of such officer's own actions contrary to the policy of the Department or was not as a result of the retirement of that officer from the Department may make application for reinstatement as a commissioned officer of the division or section of the Department in which such officer was previously employed, provided such reinstated officer will be able to complete twenty (20) years of credited service by the time the reinstated officer reaches ~~fifty-five (55)~~ fifty-seven (57) years of age. The Commissioner may waive the requirements of possessing the number of semester hours or degree as required in subsection B of this section for any former commissioned officer making application for reinstatement as a commissioned officer of the Department. The Commissioner may require the applicant for reinstatement to attend selected courses of instruction, as prescribed by the Commissioner.

2. In the event of future hostilities wherein the Congress of the United States declares this nation in a state of war with a foreign nation, including military service brought about by the Vietnam War, any period of military service served by a commissioned officer of the Department shall be considered as continued service

with such Department, provided such commissioned officer returns to duty with the Department within sixty (60) days after release from military service.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 2-105.4, as last amended by Section 10, Chapter 37, O.S.L. 2000 (47 O.S. Supp. 2000, Section 2-105.4), is amended to read as follows:

Section 2-105.4 A. 1. Effective October 1, 2000, the annual salaries for the Commissioner of Public Safety, the Assistant Commissioner of Public Safety and the commissioned officers within the Highway Patrol Division shall be in accordance and conformity with the following salary schedule, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, irregular shift pay, as authorized by Section 2-130.1 of this title:

| | |
|---|--|
| Commissioner of Public Safety | \$85,000.00 <u>\$87,000.00</u> |
| Assistant Commissioner of Public Safety | \$81,214.00 |
| Highway Patrol Colonel | \$81,214.00 |
| Highway Patrol Lieutenant Colonel | \$72,727.00 |
| Highway Patrol Major | \$65,718.00 |
| Highway Patrol Captain | \$59,926.00 |
| Highway Patrol First Lieutenant | \$55,143.00 |
| Highway Patrol Supervisor | \$51,206.00 |
| <u>Highway Patrol Sergeant (see paragraph 5 of this subsection)</u> | |
| Highway Patrolman | |
| Step 1 | \$27,000.00 |
| Step 2 | \$28,200.00 |
| Step 3 | \$29,458.00 |
| Step 4 | \$30,776.00 |
| Step 5 | \$32,157.00 |
| Step 6 | \$33,604.00 |
| Step 7 | \$35,121.00 |
| Step 8 | \$36,711.00 |
| Step 9 | \$38,377.00 |
| Step 10 | \$40,123.00 |
| Step 11 | \$41,953.00 |

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|--------------------------------|-------------|
| Step 12 | \$43,871.00 |
| Step 13 | \$45,881.00 |
| Step 14 | \$47,987.00 |
| Probationary Highway Patrolman | \$26,454.00 |
| Cadet Highway Patrolman | \$24,348.00 |

2. Each Highway Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the step of the salary schedule provided for in paragraph 1 of this subsection which step number corresponds to the number of completed years of service the Patrolman has accumulated in the Highway Patrol Division, including service in the former Lake Patrol Division and the former Capitol Patrol Division, of the Department of Public Safety if the Patrolman, within the preceding twelve-month period:

- a. has achieved a satisfactory Performance Rating Score,
- b. has not received any disciplinary action which has resulted in any suspension from the Department for a period of ten (10) or more days, and
- c. has not received any disciplinary action which has resulted in demotion.

Provided, if the number of completed years of service on the anniversary date of the Patrolman is or exceeds fourteen (14) years, said Patrolman shall be assigned to, and the salary of the Patrolman adjusted to, Step 14 of said salary schedule.

3. ~~Notwithstanding the provisions of paragraph~~ Except as provided in paragraphs 1 and 2 of this subsection, in any twelve-month period no Highway Patrolman shall receive:

- a. a salary increase which exceeds an increase to the next higher step of the salary schedule provided for in paragraph 1 of this subsection, or
- b. more than one such salary increase to the step of the salary schedule provided for in paragraph 1 of this subsection, unless salary increases are authorized by the Legislature.

Provided, however, such Patrolman shall receive the salary increase which results from a promotion to another position within the Highway Patrol Division.

4. The steps prescribed for the position of Highway Patrolman in the salary schedule provided for in paragraph 1 of this subsection are for salary and compensation purposes only. No Highway Patrolman shall be reassigned to another such step of said salary schedule for the purposes of demotion, discipline, promotion, incentive, reward or for any other reason other than the salary ~~increase~~ increases provided for in ~~paragraph 2, 3 or 4~~ paragraphs 1 and 2 of this subsection.

5. ~~The provisions of this subsection shall supersede all existing laws covering the salaries for the Commissioner of Public Safety, the Assistant Commissioner of Public Safety and the commissioned officer positions in the Highway Patrol Division of the Department of Public Safety~~ The salary for the rank of Highway Patrol Sergeant shall be the step salary of the Highway Patrolman, as provided in paragraphs 1 and 2 of this subsection, plus an additional One Hundred Eighty-two Dollars (\$182.00) per month, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title.

6. Upon graduation from the Highway Patrol Academy, each Cadet Highway Patrolman shall be promoted to and shall receive the salary for the position of Probationary Highway Patrolman. Upon completion of the one-year probationary period, as required in subsection C of Section 2-105 of this title, each Probationary Highway Patrolman shall be promoted to and shall receive the salary for Step 1 of the position of Highway Patrolman, as provided for in paragraph 1 of this subsection. Thereafter, the salary of such Patrolman shall be subject to the provisions of this subsection.

B. The provisions of this section shall supersede all existing laws covering the salaries for the Commissioner of Public Safety, the Assistant Commissioner of Public Safety and the commissioned officers in the Highway Patrol Division of the Department of Public Safety.

SECTION 3. AMENDATORY Section 6, Chapter 245, O.S.L. 1998, as last amended by Section 2, Chapter 195, O.S.L. 2000 (47 O.S. Supp. 2000, Section 2-105.6), is amended to read as follows:

Section 2-105.6 A. There is hereby created within the Oklahoma Highway Patrol Division of the Department of Public Safety a Lake Patrol Section which shall consist of such employees as may be necessary to enforce the provisions of Section 4001 et seq. of Title 63 of the Oklahoma Statutes. All commissioned officers of the Lake Patrol Section as designated by the Commissioner shall have the authority to stop and board any vessel subject to Section 4001 et seq. of Title 63 of the Oklahoma Statutes and make any necessary arrest for violations of Section 4001 et seq. of Title 63 of the Oklahoma Statutes or the rules promulgated by the Department of Public Safety or the Department of Wildlife Conservation or take any other action within their lawful authority. Any statutory references to the Oklahoma Lake Patrol Division shall mean the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

~~B. Effective July 1, 1998, all commissioned officers in the Oklahoma Lake Patrol Division of the Department of Public Safety and the powers, duties, responsibilities and authority of said Division are hereby transferred to the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety, as established in subsection A of this section. Each officer classified as a Senior Lake Patrol Officer (DPS) on June 30, 1998, shall be reclassified as a Patrolman, each officer classified as a Supervisor, Lake Patrol Division (DPS) on June 30, 1998, shall be reclassified as a Patrol Supervisor, with the rank of Second Lieutenant, and each officer classified as a Commander, Lake Patrol~~

~~Division (DPS) on June 30, 1998, shall be reclassified as a Patrol First Lieutenant as established in subsection E of this section.~~

~~C. After July 1, 1998, any such~~ Any officer set out in subsection B of this section the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety may request reclassification to the equivalent lateral position, rank and salary within the Oklahoma Highway Patrol Division and shall be reclassified to such position if the officer:

1. Meets the requirements of paragraph 2 of subsection B of Section 2-105 of this title. Provided, such officer shall be exempt from the maximum age limitation;

2. Satisfactorily completes a course of training as prescribed by the Commissioner; and

3. Serves a twelve-month probationary period which shall commence upon entering into the course of training required by paragraph 2 of this subsection.

~~D. C.~~ All commissioned officers of the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall have, in addition to their primary duty as prescribed in subsection A of this section, a secondary duty to enforce all state statutes, to make arrests for violations and to perform other duties as prescribed by the Commissioner.

~~E. D.~~ 1. Effective ~~October 1, 2000~~ July 1, 2001, the annual salaries for the commissioned officers within the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall be in accordance and conformity with the following salary schedule, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title:

| | |
|---|-------------|
| Patrol First Lieutenant | \$55,143.00 |
| Patrol Supervisor | \$51,206.00 |
| <u>Patrol Sergeant (see paragraph 5 of this subsection)</u> | |
| Patrolman | |
| Step 1 | \$27,000.00 |
| Step 2 | \$28,200.00 |
| Step 3 | \$29,458.00 |
| Step 4 | \$30,776.00 |
| Step 5 | \$32,157.00 |
| Step 6 | \$33,604.00 |
| Step 7 | \$35,121.00 |

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|---------|-------------|
| Step 8 | \$36,711.00 |
| Step 9 | \$38,377.00 |
| Step 10 | \$40,123.00 |
| Step 11 | \$41,953.00 |
| Step 12 | \$43,871.00 |
| Step 13 | \$45,881.00 |
| Step 14 | \$47,987.00 |

2. Each Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the next higher step of the salary schedule provided for in paragraph 1 of this subsection if such Patrolman, within the preceding twelve-month period:

- a. has achieved a satisfactory Performance Rating Score,
- b. has not received any disciplinary action which has resulted in any suspension from the Department for a period of ten (10) or more days, and
- c. has not received any disciplinary action which has resulted in demotion.

If the number of completed years of service on the anniversary date of the Patrolman is or exceeds fourteen (14) years, the Patrolman shall be assigned to, and the salary of the Patrolman adjusted to, Step 14 of the salary schedule.

3. Except as provided in paragraphs 1 and 2 of this subsection, in any twelve-month period no Patrolman shall receive:

- a. a salary increase which exceeds an increase to the next higher step of the salary schedule provided for in paragraph 1 of this subsection, or
- b. more than one such salary increase to the step of the salary schedule provided for in paragraph 1 of this subsection, unless salary increases are authorized by the Legislature.

Provided, however, such Patrolman shall receive the salary increase which results from a promotion to another position within the Oklahoma Highway Patrol Division.

4. The steps prescribed for the position of Patrolman in the salary schedule provided for in paragraph 1 of this subsection are for salary and compensation purposes only. No Patrolman shall be reassigned to another such step of said salary schedule for the purposes of demotion, discipline, promotion, incentive, reward or for any other reason other than the salary increases provided for in paragraphs 1 and 2 of this subsection.

5. The salary for the rank of Patrol Sergeant shall be the step salary of the Patrolman, as provided in paragraphs 1 and 2 of this subsection, plus an additional One Hundred Eighty-two Dollars

(\$182.00) per month, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title.

~~F. E.~~ The provisions of this section shall supersede all existing laws covering the salaries for the commissioned Patrolmen in the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

SECTION 4. AMENDATORY Section 7, Chapter 245, O.S.L. 1998, as last amended by Section 2, Chapter 378, O.S.L. 2000 (47 O.S. Supp. 2000, Section 2-105.7), is amended to read as follows:

Section 2-105.7 A. ~~Effective January 1, 2001, the Oklahoma Capitol Patrol Division of the Department of Public Safety is hereby abolished.~~

~~B.~~ There is hereby created within the Oklahoma Highway Patrol Division of the Department of Public Safety a Capitol Patrol Section which shall consist of such employees as may be necessary to provide law enforcement services to all state buildings and properties, including grounds appurtenant thereto, within Oklahoma County and Tulsa County. All commissioned officers of the Capitol Patrol Section as designated by the Commissioner shall have the authority to enforce all parking, traffic, and criminal laws within Oklahoma County and Tulsa County, and shall have the authority to perform other law enforcement duties within the state as prescribed by the Commissioner of Public Safety.

~~C. B.~~ Effective January July 1, 2001, all commissioned officers in the Oklahoma Capitol Patrol Division of the Department of Public Safety and the powers, duties, responsibilities and authority of the Division are hereby transferred to the Capitol Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety as established in subsection B of this section. Each officer classified as a Capitol Patrol Trainee on December 31, 2000, shall be reclassified as a Patrol Trainee, each officer classified as Probationary Capitol Patrolman on December 31, 2000, shall be reclassified as a Probationary Patrolman, each officer classified as a Capitol Patrol Officer on December 31, 2000, shall be reclassified as a Patrolman, each officer classified as a Capitol Patrol Sergeant on December 31, 2000 June 30, 2001, shall be reclassified as a Capitol Patrol Sergeant, each officer classified as a Capitol Patrol Supervisor on December 31, 2000, shall be reclassified as a Patrol Supervisor with the rank of Second Lieutenant, and each officer classified as a Capitol Patrol Commander on December 31, 2000, shall be reclassified as a Patrol First Lieutenant as established in subsection C of this section. Officers transferred pursuant to the provisions of this subsection, except as provided in subsection D of this section, shall not be required to meet the educational requirements set forth in paragraph 2 of subsection B of Section 2-105 of this title. Effective July 1, 2001, a Patrolman shall not be promoted to the position of Capitol Patrol Sergeant but may be promoted, if qualified, to the position of Patrol Sergeant.

~~D.~~ After January 1, 2001, any

C. Any officer set out in subsection C of this section the Capitol Patrol Section of the Oklahoma Highway Patrol Division may

request reclassification to the equivalent lateral position, rank, and salary within the Oklahoma Highway Patrol Division and shall be reclassified to the position if the officer:

1. Meets the requirements of paragraph 2 of subsection B of Section 2-105 of this title. Provided, the officer shall be exempt from the maximum age limitation;

2. Satisfactorily completes a Patrol Academy of the Department of Public Safety; and

3. Serves a twelve-month probationary period which shall commence upon entering the Patrol Academy required by paragraph 2 of this subsection.

Such reclassified officer shall be subject to reassignment as determined by the Chief of the Oklahoma Highway Patrol Division.

~~E.~~ D. All commissioned officers of the Capitol Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall have, in addition to their primary duty as prescribed in subsection ~~B~~ A of this section, a secondary duty to enforce all state statutes, to make arrests for violations and to perform other duties as prescribed by the Commissioner of Public Safety in accordance with Section 2-117 of this title.

~~F.~~ E. The Department of Central Services and the Oklahoma Capitol Improvement Authority shall provide office and operations space for the Capitol Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

~~G.~~ F. 1. Effective ~~January 1, 2001~~ July 1, 2001, the annual salaries for the commissioned officers within the Capitol Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall be in accordance and conformity with the following salary schedule and as prescribed by paragraph 2 of this subsection, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title:

| | |
|---|-------------|
| Patrol First Lieutenant | \$55,143.00 |
| Patrol Supervisor | \$51,206.00 |
| <u>Patrol Sergeant (see paragraph 5 of this subsection)</u> | |
| <u>Capitol</u> Patrol Sergeant | \$49,546.00 |
| Patrolman | |
| Step 1 | \$27,000.00 |
| Step 2 | \$28,200.00 |
| Step 3 | \$29,458.00 |
| Step 4 | \$30,776.00 |

| | |
|---------------------------|------------------------|
| Step 5 | \$32,157.00 |
| Step 6 | \$33,604.00 |
| Step 7 | \$35,121.00 |
| Step 8 | \$36,711.00 |
| Step 9 | \$38,377.00 |
| Step 10 | \$40,123.00 |
| Step 11 | \$41,953.00 |
| Step 12 | \$43,871.00 |
| Step 13 | \$45,881.00 |
| Step 14 | \$47,987.00 |
| Probationary Patrolman | \$26,454.00 |
| Patrol Trainee | \$24,348.00 |

~~2. On January 1, 2001, each Patrolman shall be assigned and the salary of such Patrolman shall be adjusted to the salary schedule provided for in paragraph 1 of this subsection. Such initial adjustment of salaries shall be to the step which number corresponds to the number of completed years of service such Patrolman has accumulated in the former Oklahoma Capitol Patrol Division of the Department of Public Safety. Provided, however, no such Patrolman shall receive less than the salary the Patrolman was receiving on December 31, 2000. If the number of completed years of service of such Patrolman exceeds fourteen (14) years on January 1, 2001, then said Patrolman shall be assigned to, and the salary of such Patrolman shall be adjusted to, Step 14 of said salary schedule.~~

~~3. After January 1, 2001, each Each Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the next higher step of the salary schedule provided for in paragraph 1 of this subsection if such Patrolman, within the preceding twelve-month period:~~

- ~~a. has achieved a satisfactory Performance Rating Score,~~
- ~~b. has not received any disciplinary action which has resulted in any suspension from the Department for a period of ten (10) or more days, and~~
- ~~c. has not received any disciplinary action which has resulted in demotion.~~

~~4. 3. Except as provided in paragraphs 1, and 2, ~~and 3~~ of this subsection, in any twelve-month period no Patrolman shall receive:~~

- ~~a. a salary increase which exceeds an increase to the next higher step of the salary schedule provided for in paragraph 1 of this subsection, or~~

- b. more than one such salary increase to the step of the salary schedule provided for in paragraph 1 of this subsection, unless salary increases are authorized by the Legislature.

Provided, however, such Patrolman shall receive the salary increase which results from a promotion to another position within the Capitol Patrol Section.

~~5.~~ 4. The steps prescribed for the position of Patrolman in the salary schedule provided for in paragraph 1 of this subsection are for salary and compensation purposes only. No Patrolman shall be reassigned to another such step of said salary schedule for the purposes of demotion, discipline, promotion, incentive, reward or for any other reason other than the salary increases provided for in ~~paragraph~~ paragraphs 1, 2, and 3 of this subsection.

~~6.~~ Upon graduation from the Council on Law Enforcement Education and Training Academy, each Patrol Trainee shall be promoted to and shall receive the salary for the position of Probationary Patrolman. Upon completion of the one-year probationary period, as required in subsection C of Section 2-105 of this title, each Probationary Patrolman shall be promoted to and shall receive the salary for Step 1 of the position of Patrolman, as provided for in paragraph 1 of this subsection. Thereafter, the salary of such Patrolman shall be subject to the provisions of this subsection.

5. The salary for the position of Patrol Sergeant shall be the step salary of the Patrolman, as provided in paragraphs 1 and 2 of this subsection, plus an additional One Hundred Eighty-two Dollars (\$182.00) per month, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title.

~~H.~~ G. The provisions of this section shall supersede all existing laws covering the salaries for the commissioned officers in the Capitol Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

SECTION 5. AMENDATORY Section 3, Chapter 378, O.S.L. 2000 (47 O.S. Supp. 2000, Section 309.8), as renumbered by Section 18 of Enrolled Senate Bill No. 539 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 309.8 A. ~~Effective July 1, 2000, any~~ Any state employee who is employed in a commissioned officer position of the Oklahoma Highway Patrol Division, including the Capitol Patrol Section and the Lake Patrol Section of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, a Parks Ranger of the Tourism and Recreation Department, and a Pharmacy Inspector of the Pharmacy Board shall be eligible for service credit for employment prior to July 1, 1993, if the employee was in a commissioned officer position in the former Oklahoma Capitol Patrol Division, the former Mansion Security, and the former Training Center Security of the Department of Public Safety and the employee was a full-time, active employee eligible for all state employee benefits.

~~B. Upon payment to the Oklahoma Law Enforcement Retirement System of the employee contribution the member would have been subject to had the member been a member of the System at the time, plus five percent (5%) interest, any~~ An eligible member of the System shall receive credit for ~~not to exceed five (5) years of all~~ prior service as provided in ~~paragraph~~ subsection A of this section, provided the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system. Service credit received pursuant to this section shall be used in determining the ~~member's retirement benefit but shall not be used in determining~~ years of service for retirement ~~or~~ and vesting purposes.

C. To receive credit for such service, an eligible member, as provided in this section, who became a member of the System prior to July 1, 1993, shall make application to the Board in writing for such service prior to July 1, ~~2001~~ 2002.

SECTION 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Highway Patrolmen who served with the former Capitol Patrol Division shall receive back pay for the period beginning with the month of January 2001 and ending with the month this act becomes effective. Such back pay shall equal the difference between the salary of the patrolman during this period, which did not include former Capitol Patrol Division service credit, and what the salary would have been had such former Capitol Patrol Division service credit been included.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 11-801, as last amended by Section 1 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 11-801. A. Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and any other conditions then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit the driver to bring it to a stop within the assured clear distance ahead.

B. Except when a special hazard exists that requires lower speed for compliance with subsection A of this section, the limits specified by law or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of the following maximum limits:

1. Seventy-five (75) miles per hour in locations comprising:

- a. the turnpike system, and
- b. rural segments of the interstate highway system, as may be designated by the Transportation Commission. Provided, however, the Commission shall determine prior to the designation of such segments that the public safety will not be jeopardized;

2. Seventy (70) miles per hour in locations which are:

- a. four-lane divided highways including, but not limited to, the interstate highway system, and
- b. super two-lane highways. As used in this section, a super two-lane highway shall mean any two-lane highway with designated passing lanes, and consisting of paved shoulders not less than eight (8) feet in width;

3. Sixty-five (65) miles per hour in other locations;

4. For a school bus, fifty-five (55) miles per hour on paved two-lane highways except on turnpikes and interstate highways where the maximum shall be sixty-five (65) miles per hour;

5. On any highway outside of a municipality in a properly marked school zone, twenty-five (25) miles per hour, provided the zone is marked with appropriate warning signs placed in accordance with the latest edition of the Manual on Uniform Traffic Control Devices. The Department of Transportation may determine on the basis of an engineering and traffic investigation that a speed limit higher than twenty-five (25) miles per hour may be reasonable and safe under conditions as they exist upon a highway, and post an alternative school zone speed limit. The Department shall mark such school zones, or entrances and exits onto highways by buses or students, so that the maximum speed provided by this section shall be established therein. Exits and entrances to controlled-access highways which are within such school zones shall be marked in the same manner as other highways. The county commissioners shall mark such school zones along the county roads so that the maximum speed provided by this section shall be established therein. The signs may be either permanent or temporary. The Department shall give priority over all other signing projects to the foregoing duty to mark school zones. The Department shall also provide other safety devices for school zones which are needed in the opinion of the Department;

6. Twenty-five (25) miles per hour or a posted alternative school zone speed limit through state schools located on the state-owned land adjoining or outside the limits of a corporate city or town where a state educational institution is established;

7. Thirty-five (35) miles per hour on a highway in any state park or wildlife refuge. Provided, however, that the provisions of this paragraph shall not include the State Capitol park area, and no person shall drive any vehicle at a rate of speed in excess of forty-five (45) miles per hour on any state or federal designated highway within such areas; and

8. For any vehicle or combination of vehicles with solid rubber or metal tires, ten (10) miles per hour.

The maximum speed limits set forth in this section may be altered as authorized in Sections 11-802 and 11-803 of this title.

C. The Commission is hereby authorized to prescribe maximum and minimum speeds for all vehicles and any combinations of vehicles using controlled-access highways. Such regulations shall become effective after signs have been posted on these highways giving notice thereof. Such regulations may apply to an entirely controlled-access highway or to selected sections thereof as may be

designated by the Commission. It shall be a violation of this section to drive any vehicle at a faster rate of speed than such prescribed maximum or at a slower rate of speed than such prescribed minimum. However, all vehicles shall at all times conform to the limits set forth in subsection A of this section.

Copies of such regulations certified as in effect on any particular date by the Secretary of the Commission shall be accepted as evidence in any court in this state. Whenever changes have been made in speed zones, copies of such regulations shall be filed with the Commissioner of Public Safety.

D. The driver of every vehicle shall, consistent with the requirements of subsection A of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when driving upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.

E. 1. No person shall drive a vehicle on a county road at a speed in excess of fifty-five (55) miles per hour unless posted otherwise by the board of county commissioners, as provided in subparagraphs a through c of this paragraph, as follows:

- a. the board of county commissioners may determine, by resolution, a maximum speed limit which shall apply to all county roads which are not otherwise posted for speed,
- b. the board of county commissioners shall provide public notice of the speed limit on all nonposted roads by publication in a newspaper of general circulation in the county. The notice shall be published once weekly for a period of four (4) continuous weeks, and
- c. the board of county commissioners shall forward the resolution to the Director of the Department and to the Commissioner of Public Safety.

2. The Department shall post speed limit information, as determined pursuant to the provisions of subparagraphs a through c of paragraph 1 of this subsection, on the county line marker where any state highway enters a county and at all off-ramps where interstate highways or turnpikes enter a county. The signs shall read as follows:

ENTERING _____ COUNTY
COUNTY ROAD SPEED LIMIT
_____ MPH
UNLESS POSTED OTHERWISE

The appropriate board of county commissioners shall reimburse the Department the full cost of the signage required herein.

F. Any person convicted of a speeding violation pursuant to subsection B or E of this section shall be punished by a fine as follows:

- 1. One to ten miles per hour over the limit ~~\$26.00~~
\$10.00

~~Sixteen Dollars (\$16.00) of the fine shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund;~~

- 2. Eleven to fifteen miles per hour over the limit ~~\$35.00~~
\$20.00

~~Fifteen Dollars (\$15.00) of the fine shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund;~~

- 3. Sixteen to twenty miles per hour over the limit ~~\$50.00~~
\$35.00

~~Twenty Dollars (\$20.00) of the fine shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund;~~

- 4. Twenty-one to twenty-five miles per hour over the limit
..... ~~\$90.00~~
\$75.00

~~Forty Dollars (\$40.00) of the fine shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund;~~

- 5. Twenty-six to thirty miles per hour over the limit .. ~~\$150.00~~
\$135.00

~~Seventy Dollars (\$70.00) of the fine shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund;~~

- 6. Thirty-one to thirty-five miles per hour over the limit
..... ~~\$170.00~~
\$155.00

~~Ninety Dollars (\$90.00) of the fine shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund; and~~

- 7. Thirty-six miles per hour or more over the limit ~~\$220.00~~
\$205.00

~~One Hundred Forty Dollars (\$140.00) of the fine shall be remitted by the court to the Department of Public~~

~~Safety to be deposited in the Department of Public
Safety Patrol Vehicle Revolving Fund,~~

or by imprisonment for not more than ten (10) days; for a second conviction within one (1) year after the first conviction, by imprisonment for not more than twenty (20) days; and upon a third or subsequent conviction within one (1) year after the first conviction, by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

SECTION 8. AMENDATORY 47 O.S. 1991, Section 11-807, is amended to read as follows:

Section 11-807. ~~(a)~~ A. In every charge of violation of any speed regulation in this article, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location.

~~(b)~~ B. The provision of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

~~(c) Every~~ C. Unless another penalty is provided in this title, every person convicted of violating any provision of Article VIII, Sections 11-801 to 11-807 inclusive through 11-806 of this title, shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10.00) and not more than Two Hundred Dollars (\$200.00), or shall be sentenced to serve a term of not less than five (5) days nor more than thirty (30) days in jail, or by both such fine and imprisonment punished as provided in Section 17-101 of this title.

SECTION 9. AMENDATORY 47 O.S. 1991, Section 11-901, as last amended by Section 2 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 11-901. A. It shall be deemed reckless driving for any person to drive a motor vehicle in a careless or wanton manner without regard for the safety of persons or property or in violation of the conditions outlined in Section 11-801 of this title.

B. Every person convicted of reckless driving shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by a fine of not less than ~~Two Hundred Fifty Dollars (\$250.00)~~ One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment; on a second or subsequent conviction, punishment shall be imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than ~~Three Hundred Dollars (\$300.00)~~ One Hundred Fifty Dollars (\$150.00) nor more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. ~~One Hundred Fifty Dollars (\$150.00) of any fine imposed under this subsection shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.~~

SECTION 10. AMENDATORY 47 O.S. 1991, Section 11-902, as last amended by Section 3 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 11-902. A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of ten-hundredths (0.10) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;

2. Is under the influence of alcohol;

3. Is under the influence of any intoxicating substance other than alcohol which may render such person incapable of safely driving or operating a motor vehicle; or

4. Is under the combined influence of alcohol and any other intoxicating substance which may render such person incapable of safely driving or operating a motor vehicle.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.

C. 1. Any person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not ~~less than One Hundred Fifty Dollars (\$150.00)~~ nor more than One Thousand Dollars (\$1,000.00).

2. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of any law of another state prohibiting the offense provided in subsection A of this section, is convicted of a second offense pursuant to the provisions of this section or has a prior conviction in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted pursuant to the provision of this section shall be deemed guilty of a felony and shall be sentenced to:

a. treatment for a minimum of twenty-eight (28) days followed by thirty (30) days of aftercare at the defendant's expense, or

b. the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years and a fine of not ~~less than One Hundred Fifty Dollars (\$150.00)~~ nor more than Two Thousand Five Hundred Dollars (\$2,500.00).

However, if the treatment in subparagraph a of this paragraph does not include inpatient treatment for a period of not less than five (5) days, the person shall serve a term of imprisonment of at least five (5) days.

3. Any person who is convicted of a second felony offense pursuant to the provisions of this section shall be sentenced to:

- a. treatment for a minimum of twenty-eight (28) days followed by ninety (90) days of aftercare at the defendant's expense, two hundred forty (240) hours of community service following the aftercare and use of an ignition interlock device, or
- b. the custody of the Department of Corrections for not less than one (1) year and not to exceed seven (7) years and a fine of not ~~less than One Hundred Fifty Dollars (\$150.00)~~ ~~nor~~ more than Five Thousand Dollars (\$5,000.00).

However, if the treatment in subparagraph a of this paragraph does not include inpatient treatment for a period of not less than ten (10) days, the person shall serve a term of imprisonment of at least ten (10) days.

4. Any person who is convicted of a third or subsequent felony offense pursuant to the provisions of this section shall be sentenced to:

- a. inpatient treatment for a minimum of twenty-eight (28) days followed by not less than one (1) year of supervision, periodic testing, and aftercare at the defendant's expense, four hundred eighty (480) hours of community service following the period of aftercare, and use of an ignition interlock device for a minimum of thirty (30) days, or
- b. the custody of the Department of Corrections for not less than one (1) year and not to exceed ten (10) years and a fine of not ~~less than One Hundred Fifty Dollars (\$150.00)~~ ~~nor~~ more than Five Thousand Dollars (\$5,000.00).

However, if the person does not undergo inpatient treatment pursuant to subparagraph a of this paragraph the person shall serve a term of imprisonment of at least ten (10) days.

5. Any person who, within ten (10) years after a previous conviction of a violation of murder in the second degree or manslaughter in the first degree in which the death was caused as a result of driving under the influence of alcohol or other intoxicating substance, is convicted of a violation of this section shall be deemed guilty of a felony.

6. Provided, however, a conviction from another state shall not be used to enhance punishment pursuant to the provisions of this subsection if that conviction is based on a blood or breath alcohol concentration of less than ten-hundredths (0.10).

7. In any case in which a defendant is charged with a second or subsequent driving under the influence of alcohol or other intoxicating substance offense within any municipality with a municipal court other than a court of record, the charge shall be presented to the county's district attorney and filed with the district court of the county within which the municipality is located.

~~8. One Hundred Fifty Dollars (\$150.00) of any fine imposed under this subsection shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.~~

D. Any person who is convicted of a violation of driving under the influence with a blood or breath alcohol concentration of fifteen-hundredths (0.15) or more shall be deemed guilty of aggravated driving under the influence. Aggravated driving under the influence shall be punishable by mandatory inpatient treatment for a minimum of twenty-eight (28) days followed by not less than one (1) year of supervision, periodic testing, and aftercare at the defendant's expense, four hundred eighty (480) hours of community service following the period of aftercare, and an ignition interlock device for a minimum of thirty (30) days. Nothing in this subsection shall preclude the defendant from being charged or punished as provided in ~~paragraphs~~ paragraph 1, 2, 3, 4 or 5 of subsection C of this section.

E. When a person is sentenced to imprisonment in the custody of the Department of Corrections, the person shall be processed through the Lexington Assessment and Reception Center or at a place determined by the Director of the Department of Corrections. The Department of Corrections shall classify and assign the person to one or more of the following:

1. The Department of Mental Health and Substance Abuse Services pursuant to paragraph 1 of subsection A of Section 612 of Title 57 of the Oklahoma Statutes; or

2. A correctional facility operated by the Department of Corrections with assignment to substance abuse treatment.

F. The Department of Mental Health and Substance Abuse Services and the Department of Corrections shall certify to the Department of Public Safety that a person has participated in an alcohol and substance abuse evaluation and assessment program, as provided in subsection H of this section, and successfully completed any drug treatment program required by the court and is successfully complying with any follow-up treatment required by the Department of Corrections. In such case, the person shall be given credit therefor as fulfillment of all provisions of Section 3-453 of Title 43A of the Oklahoma Statutes and shall be permitted to apply for reinstatement of any suspension, revocation, cancellation or denial order withdrawing a privilege to drive, if the person is otherwise eligible.

G. The Department of Public Safety is hereby authorized to reinstate any suspended or revoked driving privilege when the person meets the statutory requirements which affect the existing driving privilege.

H. Any person who is found guilty of a violation of the provisions of this section shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation and assessment program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating and assessing the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation and assessment. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation and assessment shall not exceed Seventy-five Dollars (\$75.00). The evaluation and assessment shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is evaluated and assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. If such report indicates that the evaluation and assessment shows that the defendant would benefit from a treatment program, the court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in an alcohol and drug substance abuse treatment program at an approved treatment facility as defined by Section 3-403 of Title 43A of the Oklahoma Statutes. No person, agency or facility operating an alcohol and drug substance abuse evaluation and assessment program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated and assessed pursuant to this section for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to imprisonment in the custody of the Department of Corrections and the court has received a written evaluation report pursuant to the provisions of this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation and assessment report submitted to the court pursuant to the provisions of this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation and assessment required by this subsection. If the defendant fails or refuses to comply with an order of the court to obtain the evaluation and assessment, the Department of Public Safety shall not reinstate driving privileges until the defendant has complied in full with such order. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction

authorized by law for failure or refusal to comply with an order of the court.

I. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

J. Any person who is found guilty of a second or subsequent violation of the provisions of this section, shall be ordered by the court to have installed, after the conclusion of the mandatory revocation period pursuant to Section 6-205.1 of this title, on every motor vehicle owned by the person and on the vehicle regularly operated by the person, if such vehicle is not owned by the person pursuant to Sections 754.1 and 755 of this title, an ignition interlock device approved by the Department of Public Safety at the person's own expense for a period of not less than six (6) months nor more than three (3) years. The person shall pay the monthly maintenance fee for each ignition interlock device installed pursuant to this subsection. The installation of an ignition interlock device, as required by this subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

K. Any person who is found guilty of a felony violation of the provisions of this section may be required to submit to electronic monitoring as authorized and defined by Section 991a of Title 22 of the Oklahoma Statutes.

L. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of law of another state prohibiting the offense provided in subsection A of this section or a violation of a municipal ordinance prohibiting the offense provided in subsection A of this section, pleads guilty or nolo contendere or is convicted of a violation of this section shall not be required to undergo the alcohol and drug substance evaluation program required by subsection H of this section. The court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in an alcohol and drug substance abuse treatment program pursuant to Section 3-452 of Title 43A of the Oklahoma Statutes.

M. Any person who is found guilty of a violation of the provisions of this section who has been sentenced by the court to perform any type of community service shall not be permitted to pay a fine in lieu of performing the community service.

SECTION 11. AMENDATORY 47 O.S. 1991, Section 17-101, as last amended by Section 5 of Enrolled Senate Bill No. 544 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 17-101. A. It is a misdemeanor for any person to violate any of the provisions of this title unless such violation is by this title or other law of this state declared to be a felony.

B. 1. Every person convicted of a misdemeanor for a violation of any of the provisions of Sections 10-101 through 14-121 or Sections 16-101 through 16-114 of this title for which another penalty is not provided shall upon conviction thereof be punished by a fine of not less than ~~Twenty Dollars (\$20.00)~~ Five Dollars (\$5.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year after the first conviction by imprisonment for not more than twenty (20) days; upon a third or subsequent conviction within one (1) year after the first conviction by imprisonment for not more than six (6) months, or by both such fine and imprisonment. ~~Ten Dollars (\$10.00) of any fine imposed under this subsection shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.~~

2. Any person violating the provisions of Sections 10-101 through 14-121 or Sections 16-101 through 16-114 of this title, where a jail sentence is not mandatory may, in the discretion of the district attorney wherein the offense occurred, be permitted to enter a plea of guilty by written statement by the person charged to be presented to the court wherein the case is filed. A remittance covering the fine and costs may be considered and received with the same force and effect as a written plea of guilty.

C. Unless another penalty is in this title or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any other provision of this title shall be punished by a fine of not less than ~~Twenty Dollars (\$20.00)~~ Five Dollars (\$5.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. ~~Ten Dollars (\$10.00) of any fine imposed under this subsection shall be remitted by the court to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.~~

D. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of any of the provisions of this title which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1313.4 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment; and

2. "Court" means any district court having jurisdiction to impose a criminal fine or penalty.

B. In addition to any other penalty assessment imposed by law, any person convicted of any traffic offense punishable pursuant to Title 47 of the Oklahoma Statutes, but excluding a conviction for a violation of Section 11-901, 11-902, 11-1112, 11-1114 or 12-417 of Title 47 of the Oklahoma Statutes and excluding parking and standing violations, or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay a fee of Fifteen Dollars (\$15.00) as a separate penalty assessment. The assessment and fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

C. The fee shall be collected at the same time and in the same manner as the penalty assessments provided for in Sections 1313.2 and 1313.3 of Title 20 of the Oklahoma Statutes. Each court clerk is authorized to retain all interest accrued thereon prior to the due date for deposits as provided in this subsection. The court clerk shall deposit the fee collected pursuant to this section in the account provided for in subsection D of Section 1313.2 of Title 20 of the Oklahoma Statutes, and the amounts imposed by this section shall be forwarded monthly in one check or draft to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.

D. The deposits required by this section shall be included in the report required by Section 1313.2 of Title 20 of the Oklahoma Statutes and shall be listed as a separate item.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1313.5 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment; and

2. "Court" means any district court having jurisdiction to impose a criminal fine or penalty.

B. In addition to any other penalty assessment imposed by law, any person convicted of any offense punishable pursuant to Section 11-901 or 11-902 of Title 47 of the Oklahoma Statutes, or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay a fee of One Hundred Fifty Dollars (\$150.00) as a separate penalty assessment. The assessment and fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

C. The fee shall be collected at the same time and in the same manner as the penalty assessments provided for in Sections 1313.2 and 1313.3 of Title 20 of the Oklahoma Statutes. As an administrative fee for handling funds collected as a penalty assessment, each court clerk is authorized to retain all interest accrued thereon prior to the due date for deposits as provided in this subsection. The court clerk shall deposit the fee collected pursuant to this section in the account provided for in subsection D of Section 1313.2 of Title 20 of the Oklahoma Statutes, and the amounts imposed by this section shall be forwarded monthly in one

check or draft to the Department of Public Safety to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.

D. The deposits required by this section shall be included in the report required by Section 1313.2 of Title 20 of the Oklahoma Statutes and shall be listed as a separate item.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-405.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The driver of a motor vehicle, upon approaching a stationary authorized emergency vehicle that is displaying a flashing combination red or blue light or any combination of red or blue lights, shall:

1. If traveling on a highway that consists of two or more lanes that carry traffic in the same direction of travel as that of the driver, the driver shall proceed with due caution and shall, if possible and with due regard to the road, weather, and traffic conditions, change lanes into a lane that is not adjacent to the stationary authorized emergency vehicle; or if the driver is not able to change lanes or if to do so would be unsafe, the driver shall proceed with due caution and reduce the speed of the motor vehicle to a safe speed for the existing road, weather, and traffic conditions; and

2. If traveling on a highway other than a highway described in paragraph 1 of this subsection, the driver shall proceed with due caution and reduce the speed of the motor vehicle to a safe speed for the existing road, weather, and traffic conditions.

B. This section does not relieve the operator of a stationary authorized emergency vehicle from the consequences of reckless disregard for the safety of all persons and property upon the highway.

SECTION 15. RECODIFICATION Section 3, Chapter 179, O.S.L. 1997 (47 O.S. Supp. 2000, Section 854.1), shall be recodified as Section 2-142 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 16. This act shall become effective July 1, 2001.

SECTION 17. 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 21st day of May, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the 23rd day of May, 2001.

Presiding Officer of the Senate