

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2265

By: Paulk and Nance of the
House

and

Smith of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 3 O.S. 2001, Section 303, which relates to drawing or collecting of specimens; allowing the testing, retainment, and administration of specimens by certain laboratories; amending 22 O.S. 2001, Section 991a, as last amended by Section 1 of Enrolled Senate Bill No. 1374 of the 2nd Session of the 49th Oklahoma Legislature, which relates to powers of the court and DNA samples; requiring installation of ignition interlock device to be paid by defendant; changing entity that must approve ignition interlock device; reducing amount of blood or breath alcohol concentration; amending 47 O.S. 2001, Section 2-105, as last amended by Section 29 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, which relates to personnel of Highway Patrol Division; modifying appointment period for Oklahoma Highway Patrol Division; modifying appointment requirements; modifying age requirement for reinstatement; amending Section 4, Chapter 461, O.S.L. 2003, and 47 O.S. 2001, Sections 2-105.5 and 2-117, as amended by Section 1, Chapter 404, O.S.L. 2003 (47 O.S. Supp. 2003, Sections 2-105A and 2-117), which relate to creation, organization and responsibilities of Department of Public Safety; providing for the reclassification of certain employees; providing annual salary increases for reclassified and transferred employees; declaring controlled substance screening results as exempt from law enforcement records; expanding scope of powers for peace officers; amending 47 O.S. 2001, Section 2-310.1, as last amended by Section 2, Chapter 486, O.S.L. 2003 (47 O.S. Supp. 2003, Section 2-310.1), which relates to law enforcement retirement system; requiring agency participation and adoption in the promulgation of certain rule; amending 47 O.S. 2001, Section 6-102, as amended by Section 3, Chapter 86, O.S.L. 2002, 47 O.S. 2001, Section 6-110, as last amended by Section 2 of Enrolled House Bill No. 1899 of the 2nd Session of the 49th Oklahoma Legislature and 6-121 (47 O.S. Supp. 2003, Sections 6-102 and 6-110), which relate to issuance, expiration, and renewal of driver licenses; including dependents as

exempt persons; authorizing the adoption of rules for reciprocity agreements; requiring certain specifications within the rules; expanding who may administer driving examinations; deleting requirement of certain courses; allowing dependents extension of driver license under certain circumstance; amending 47 O.S. 2001, Section 7-609, which relates to compulsory liability insurance for motor vehicles; directing the deposit of a certain fee to a special account; amending 47 O.S. 2001, Sections 11-106, as amended by Section 1, Chapter 229, O.S.L. 2002, 11-702, as amended by Section 8, Chapter 461, O.S.L. 2003 and Section 3, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2003, Sections 11-106, 11-702 and 11-805.4), which relate to rules of the road; expanding scope of exemptions; modifying list of vehicles required to stop at railroad crossings; requiring compliance under certain provision; amending 47 O.S. 2001, Section 11-902, as last amended by Section 1, Chapter 437, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-902), which relates to driving while intoxicated; changing entity that approves ignition interlock device; prohibiting or limiting the operation of certain self-propelled or motor-driven or operated vehicles; providing for exceptions; requiring certain notice on all minibikes offered for sale; prohibiting the operation of golf carts and all-terrain vehicles; providing for exceptions; amending 47 O.S. 2001, Section 11-1402, as amended by Section 14, Chapter 461, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-1402), which relates to enforcement of laws on turnpikes; clarifying responsibilities of Department of Public Safety; amending 47 O.S. 2001, Section 40-102, as amended by Section 1, Chapter 444, O.S.L. 2002 (47 O.S. Supp. 2003, Section 40-102), which relates to highway safety code ancillaries; deleting operative date; modifying period of reporting requirement; amending 47 O.S. 2001, Section 153, which relates to state-owned automobiles; clarifying prohibition; amending 47 O.S. 2001, Sections 751, as amended by Section 1, Chapter 410, O.S.L. 2002, 752, as amended by Section 2, Chapter 410, O.S.L. 2002, 754, 754.1 and 759, as last amended by Section 1 of Enrolled House Bill No. 2435 of the 2nd Session of the 49th Oklahoma Legislature (47 O.S. Supp. 2003, Sections 751 and 752), which relate to chemical tests; deleting obsolete language; allowing the testing of specimens by certain laboratories; requiring certain agencies to provide written report of results to certain persons; deleting obsolete language; modifying hearing issues; changing entity that must approve ignition interlock device; requiring Board to promulgate rules; authorizing Board to establish rule for charging fees for certain operations; creating the Board of Tests for Alcohol and Drug Influence Revolving Fund; amending 47 O.S. 2001, Section 951, as last amended by Section 8, Chapter 279, O.S.L. 2003 and 953 (47 O.S. Supp. 2003, Section 951), which relate to wreckers and towing services; modifying definition of wrecker or towing service; prohibiting operators from soliciting business under certain circumstance; amending 47 O.S. 2001, Section 1151, as amended by Section 1, Chapter

59, O.S.L. 2002 (47 O.S. Supp. 2003, Section 1151), which relates to offenses and penalties of the Oklahoma Vehicle License and Registration Act; modifying and enumerating certain vehicles that are not required to register under the act; amending 74 O.S. 2001, Section 840-5.5, as last amended by Section 7 of Enrolled House Bill No. 2280 of the 2nd Session of the 49th Oklahoma Legislature, which relates to classification of positions; unclassifying certain position of the Department of Public Safety; repealing 47 O.S. 2001, Section 1151.1, as last amended by Section 40, Chapter 3, O.S.L. 2003 (47 O.S. Supp. 2003, Section 1151.1), which relates to golf carts or all-terrain vehicles; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 3 O.S. 2001, Section 303, is amended to read as follows:

Section 303. A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, certified by the State Board of Medical Licensure and Supervision, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or other qualified person authorized by the Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer may withdraw blood for purpose of having a determination made of its concentration of alcohol or other intoxicant. Only qualified persons authorized by the Board may collect breath, saliva or urine, or administer tests of breath under the provisions of Sections 301 through 308 of this title.

B. No person specified in subsection A of this section, no employer of such a person, and no hospital or other health care facility where blood is withdrawn, shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer pursuant to the

provisions of Section 302 or 304 of this title, if the withdrawal of blood is performed in a reasonable manner according to generally accepted clinical practice. If the person specified in subsection A of this section is presented with a written statement by the person whose blood is to be withdrawn or a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood or an order from a court of competent jurisdiction that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of Section 302 or 304 of this title or when acting pursuant to court order.

C. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board, or tested by a laboratory that is exempt from the Board rules pursuant to Section 759 of Title 47 of the Oklahoma Statutes, to determine the alcohol concentration thereof, or the presence and concentration of any other intoxicant which might have affected the ability of the person tested to operate an aircraft safely.

D. When blood is withdrawn or saliva or urine is collected for ~~the appropriate test as determined by the Board~~ testing of its alcohol or other intoxicant concentration, at the request of a law enforcement officer, a sufficient quantity of the same specimen

shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess blood, saliva or urine specimen shall be retained by a laboratory approved by the Board, in accordance with the rules and regulations of the Board, or by a laboratory that is exempt from the Board rules pursuant to Section 759 of Title 47 of the Oklahoma Statutes, for sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional blood, saliva or urine specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

E. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in accordance with the rules and regulations of the Board, to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior

to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

F. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicant thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

G. Tests pursuant to the provisions of Sections 301 through 308 of this title, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this section and Section 305 of this title, shall have been administered or performed in accordance with the rules and regulations of the Board, or performed by a laboratory that is exempt from the Board rules pursuant to Section 759 of Title 47 of the Oklahoma Statutes.

H. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was under the influence of an intoxicant and was operating an aircraft, who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, breath,

saliva or urine which is appropriate as determined by the Board for the purpose of determining its alcohol concentration or of any other intoxicant therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of an intoxicant.

I. A written report of the results of the test administered by or at the direction of the law enforcement officer shall be made available to the tested person, or his or her attorney, to the law enforcement agency employing the arresting officer, the district attorney of the county in which the alleged violation of Section 301 of this title occurred, and to the Federal Aviation Administration Flight Standards District Office having jurisdiction over the county in which the alleged violation of Section 301 of this title occurred. The results of the tests provided for in this title shall be admissible in civil actions.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by Section 1 of Enrolled Senate Bill No. 1374 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the

convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

- a. to provide restitution to the victim as provided by Section 991f et seq. of this title or according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family and if the extent of the damage to the victim is determinable with reasonable certainty,
- b. to reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims, as a result of the criminal act for which such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,
- c. to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted,
- d. to pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, and which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss,

- e. to confinement in the county jail for a period not to exceed six (6) months,
- f. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which he or she is being sentenced,
- g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,
- h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant,

and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty,

- i. to reimburse the Oklahoma State Bureau of Investigation and any authorized law enforcement agency for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes or to the general fund wherein the other law enforcement agency is located,
- j. to pay a reasonable sum to the Crime Victims Compensation Board, created by Section 142.2 et seq. of Title 21 of the Oklahoma Statutes, for the benefit of crime victims,
- k. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced,
- l. to participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both,

pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,

m. to be placed in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes,

n. to install, at the expense of the defendant, an ignition interlock device approved by the ~~Department of Public Safety at the defendant's own expense~~ Board of Tests for Alcohol and Drug Influence. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of

Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of ~~five-hundredths (0.05)~~ two-hundredths (0.02) or greater,

- o. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Three Hundred Dollars (\$300.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

- p. to perform one or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization,
- q. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,
- r. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,
- s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
- t. to obtain positive behavior modeling by a trained mentor,
- u. to serve a term of confinement in a restrictive housing facility available in the community,

- v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
- w. to obtain employment or participate in employment-related activities,
- x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
- y. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,
- z. to submit to blood or saliva testing as required by subsection I of this section,
- aa. to repair or restore property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or restore the property and the victim consents to the repairing or restoring of the property,
- bb. to restore damaged property in kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim,
- cc. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,

- dd. in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems,
- ee. in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offender Registration Act, require the person to participate in a treatment program, if available. The treatment program may include polygraphs specifically designed for use with sex offenders for purposes of supervision and treatment compliance, provided the examination is administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay,
- ff. in addition to other sentencing powers of the court, the court in the case of a defendant being sentenced for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program, if available,

gg. in the case of a person convicted of any false or bogus check violation, as defined in Section 1541.4 of Title 21 of the Oklahoma Statutes, impose a bogus check fee to be paid to the district attorney. The fee shall be equal to the amount assessed as court costs plus Twenty-five Dollars (\$25.00) for each check upon filing of the case in district court. This money shall be deposited in the Bogus Check Restitution Program Fund as established in subsection B of Section 114 of this title. Additionally, the court may require the offender to pay restitution and bogus check fees on any other bogus check or checks that have been submitted to the District Attorney Bogus Check Restitution Program, and

hh. any other provision specifically ordered by the court.

However, any such order for restitution, community service, payment to a certified local crimestoppers program, payment to the Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence;

2. Impose a fine prescribed by law for the offense, with or without probation or commitment and with or without restitution or service as provided for in this section, Section 991a-4.1 of this title or Section 227 of Title 57 of the Oklahoma Statutes;

3. Commit such person for confinement provided for by law with or without restitution as provided for in this section;

4. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay

without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty;

5. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes;

6. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program;

7. In addition to the other sentencing powers of the court, in the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol or another intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person:

- a. to participate in an alcohol and drug assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,

- b. 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,
- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install, at the expense of the person, an ignition interlock device, ~~at the person's own expense,~~ approved by the ~~Department of Public Safety~~ Board of Tests for Alcohol and Drug Influence, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation

of the sentence and may be punished as deemed proper by the sentencing court, or

- e. beginning January 1, 1993, to submit to electronically monitored home detention administered and supervised by the Department of Corrections, and to pay to the Department a monitoring fee, not to exceed Seventy-five Dollars (\$75.00) a month, to the Department of Corrections, if in the opinion of the court the defendant has the ability to pay such fee. Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections Revolving Fund. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, may be enforced as an indirect contempt of court;

8. In addition to the other sentencing powers of the court, in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems;

9. In addition to the other sentencing powers of the court, in the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim. The defendant may be required to pay all or part of the cost of the treatment or counseling services;

10. In addition to the other sentencing powers of the court, the court, in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offenders

Registration Act, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program may include polygraphs specifically designed for use with sex offenders for the purpose of supervision and treatment compliance, provided the examination is administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay;

11. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of child abuse or neglect, as defined in Section 7102 of Title 10 of the Oklahoma Statutes, may require the person to undergo treatment or to participate in counseling services. The defendant may be required to pay all or part of the cost of the treatment or counseling services; or

12. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of cruelty to animals pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may require the person to pay restitution to animal facilities for medical care and any boarding costs of victimized animals.

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the agency or assessor for the

evaluation. The fee shall be the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation shall be conducted at a certified assessment agency, the office of a certified assessor or at another location as ordered by the court. The agency or assessor shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection 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 the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to 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 required by this subsection.

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not

apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 7 of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney. Both the application and the waiver shall be made part of the record of the case.

D. When sentencing a person convicted of a crime, the judge shall consider any victim impact statements if submitted to the jury, or the judge in the event a jury is waived.

E. Probation, for purposes of subsection A of this section, is a procedure by which a defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, is released by the court subject to conditions imposed by the court and subject to the supervision of the Department of Corrections. Such supervision shall be initiated upon an order of probation from the court, and shall not exceed two (2) years, except as otherwise provided by law. In the case of a person convicted of a sex offense, supervision shall begin immediately upon release from incarceration and shall not be limited to two (2) years. Provided further, any supervision provided for in this section may be extended for a period not to exceed the expiration of the maximum term or terms of the sentence upon a determination by the Division

of Probation and Parole of the Department of Corrections that the best interests of the public and the release will be served by an extended period of supervision.

F. The Department of Corrections, or such other agency as the court may designate, shall be responsible for the monitoring and administration of the restitution and service programs provided for by subparagraphs a, c, and d of paragraph 1 of subsection A of this section, and shall ensure that restitution payments are forwarded to the victim and that service assignments are properly performed.

G. 1. The Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with counties for the administration of county Community Service Sentencing Programs.

2. Any offender eligible to participate in the Program pursuant to this act shall be eligible to participate in a county Program; provided, participation in county-funded Programs shall not be limited to offenders who would otherwise be sentenced to confinement with the Department of Corrections.

3. The Department shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the Department for a contract for a county-funded Program for a specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Department.

4. The Department is hereby authorized to provide technical assistance to any county in establishing a Program, regardless of whether the county enters into a contract pursuant to this subsection. Technical assistance shall include appropriate staffing, development of community resources, sponsorship, supervision and any other requirements.

5. The Department shall annually make a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House on the number of such Programs, the number of participating offenders, the success rates of each Program according to criteria established by the Department and the costs of each Program.

H. As used in this section:

1. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of ~~five-hundredths (0.05)~~ two-hundredths (0.02) or greater; and

2. "Electronically monitored home detention" means incarceration of the defendant within a specified location or locations with monitoring by means of a device approved by the Department of Corrections that detects if the person leaves the confines of any specified location.

I. A person convicted of an offense as provided in Section 7115 of Title 10 of the Oklahoma Statutes or Section 645, subsection B of Section 649, Section 650, 650.2, 650.4, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 716, 741, 759, 798, 799, 800, 801, 832, 885, 888, 891, subsection B of Section 1021, Section 1021.2, 1021.3, 1087, 1088, 1114, 1115, 1116, 1123, 1173, 1192, 1192.1, 1431 or 1435 of Title 21 of the Oklahoma Statutes, or receiving any form of probation for an offense in which registration is required pursuant to the Sex Offenders Registration Act, or a person convicted of any felony who has a prior conviction for an offense listed in this subsection shall submit to deoxyribonucleic acid DNA testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI DNA Offender Database. Any defendant sentenced to probation shall be required to submit to testing within thirty (30) days of

sentencing either to the Department of Corrections or to the county sheriff as directed by the court. Defendants who are sentenced to a term of incarceration shall submit to testing in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections or to the county sheriff, for those defendants sentenced to incarceration in a county jail. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI DNA Offender Database at the time of sentencing shall not be required to submit to additional testing. Except as required by the Sex Offenders Registration Act, a deferred judgment does not require submission to deoxyribonucleic acid testing.

Any person convicted of an offense as provided in this section who is in custody after July 1, 1996, shall provide a blood or saliva sample prior to release. Every person who is convicted of an offense as provided in this subsection whose sentence does not include a term of confinement shall provide a blood or saliva sample as a condition of the sentence.

J. Samples of blood or saliva for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections or the county sheriff or employees or contractors of the sheriff's office. The individuals shall be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections and the county sheriff shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into physical custody to serve a term of incarceration. The Department and the sheriff's office shall use

sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay a fee of Fifteen Dollars (\$15.00) to the agency collecting the sample for submission to the OSBI DNA Offender Database. Any fees collected by the Department of Corrections or the county sheriff pursuant to this subsection shall be deposited in the Department of Corrections revolving account or the sheriff's service fee account.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 2-105, as last amended by Section 29 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 2-105. A. The Commissioner of Public Safety, subject to the Oklahoma Personnel Act, 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, Lieutenant 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; provided, any officer appointed to a commissioned position prescribed in this paragraph which is unclassified pursuant to Section 840-5.5 of Title 74 of the Oklahoma Statutes shall have a right of return to the highest previously held classified commissioned position within the Highway Patrol Division of the Department of Public Safety without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

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 at least twenty-one (21) years of age but less than forty-three (43) years of age, and shall possess:
 - (1) 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

(2) for any person appointed to the Oklahoma Highway Patrol Division on or after July 1, ~~2004~~ 2008:

(a) 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

(b) 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:

i. at least two (2) years' experience as a law enforcement officer certified by the Council on Law Enforcement Education and Training (C.L.E.E.T.) ~~certified law enforcement officer~~ or by the equivalent state agency in another state or by any law enforcement agency of the federal government, or

ii. at least two (2) years of honorable military service in ~~combat arms,~~ military security or military rescue an

active or reserve component of the
United States Armed Forces.

Provided, such years of experience or service shall have been consecutive and shall have been completed no more than two (2) years prior to application for appointment, 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 or being under the influence of intoxicating 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 intra-agency transfer to the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act 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 2-150 of this title.

2. Each commissioned officer of the Highway Patrol Division of the Department of Public Safety shall be entitled to reimbursement of expenses pursuant to the State Travel Reimbursement Act while away from the assigned area of the officer as designated by the Chief of the Oklahoma Highway Patrol Division, when such expense is incurred in the service of the state.

F. The position of Colonel, Lieutenant Colonel, and Major 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.

1. 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, efficiency of service performed, and one of the following:

- a. one (1) year of experience in any combination as Assistant Commissioner of Public Safety or Assistant Chief of the Oklahoma Highway Patrol Division,
- b. two (2) years of experience in any combination as Major or higher rank of the Oklahoma Highway Patrol Division,
- c. four (4) years of experience in any combination as Captain or higher rank of the Oklahoma Highway Patrol Division, or
- d. six (6) years of experience in any combination as First Lieutenant or higher rank of the Oklahoma Highway Patrol Division.

2. The position of Assistant 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, efficiency of service performed, and one of the following:

- a. one (1) year of experience in any combination as Assistant Commissioner of Public Safety or Major of the Oklahoma Highway Patrol Division,
- b. two (2) years of experience in any combination as Captain or higher rank of the Oklahoma Highway Patrol Division, or
- c. four (4) years of experience in any combination as First Lieutenant or higher rank of the Oklahoma Highway Patrol Division.

3. The position of Major 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, efficiency of service performed, and one of the following:

- a. one (1) year of experience in any combination as Assistant Commissioner of Public Safety or Captain of the Oklahoma Highway Patrol Division, or
- b. three (3) years of experience in any combination as Highway Patrol First Lieutenant or higher rank of the Oklahoma Highway Patrol Division.

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-seven (57)~~ sixty-two (62) 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 4. AMENDATORY Section 4, Chapter 461, O.S.L. 2003 (47 O.S. Supp. 2003, Section 2-105A), is amended to read as follows:

Section 2-105A. A. On July 1, 2003, each employee of the Department of Public Safety who is classified as a Training Specialist III, who is certified as a full-time law enforcement officer by the Council on Law Enforcement Education and Training, and who is commissioned by the Commissioner of Public Safety as a

police officer of the Department shall be reclassified and transferred to the Capitol Patrol Section of the Highway Patrol Division of the Department as provided in this section.

B. On July 1, 2003, each employee described in subsection A of this section shall be reclassified as a Patrolman in the Capitol Patrol Section of the Highway Patrol Division of the Department and assigned to the salary schedule provided in paragraph 1 of subsection F of Section 2-105.7 of Title 47 of the Oklahoma Statutes to the step which is nearest, but not more than, the salary the employee was earning on June 30, 2003. The sole purpose of this subsection is to reclassify and assign each of the employees specified in subsection A of this section to a position and step in conformity with the salary schedule. It is not the intent of this subsection to modify in any way the salary that the employee was earning on June 30, 2003. Therefore, the annual salary of the employee shall not be changed as a result of being reclassified and assigned to said salary schedule, and if the salary of the employee as of June 30, 2003, does not correspond to one of the steps, then the salary shall remain off step until the provisions of subsection C of this section are applicable.

C. After July 1, 2003, each reclassified and transferred employee described in subsection A of this section shall receive upon the anniversary date of the reclassified and transferred employee, an annual salary increase to the next step of the salary schedule provided for in paragraph 1 of subsection F of Section 2-105.7 of Title 47 of the Oklahoma Statutes, and shall for each fiscal year thereafter receive an annual salary increase to the subsequent step of the salary schedule until that reclassified and transferred employee reaches Step 14 of the schedule.

SECTION 5. AMENDATORY 47 O.S. 2001, Section 2-105.5, is amended to read as follows:

Section 2-105.5 All applicants, including reinstatements, for all commissioned officer positions within the Department of Public Safety shall, prior to initial appointment or reinstatement, be required to submit to and successfully pass a controlled substance screening conducted by a National Institute on Drug Abuse (NIDA) certified laboratory. The Commissioner of Public Safety shall establish the necessary procedures to implement this requirement; provided, the results of any such screening shall be considered exempt law enforcement records as prescribed in Section 24A.8 of Title 51 of the Oklahoma Statutes. The Commissioner of Public Safety is authorized to expend the funds necessary to accomplish these screenings.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 2-117, as amended by Section 1, Chapter 404, O.S.L. 2003 (47 O.S. Supp. 2003, Section 2-117), is amended to read as follows:

Section 2-117. A. The Commissioner of Public Safety and each officer of the Department of Public Safety as shall be designated and commissioned by the Commissioner including, but not limited to, all 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. Such officers shall have the powers now or hereafter vested by law in peace officers except the serving or execution of civil process.

B. The officers of the Department shall have the following authority, responsibilities, powers and duties:

1. To enforce the provisions of this title and any other law regulating the operation of vehicles or the use of the highways, including, but not limited to, the Motor Carriers Act of this state, or any other laws of this state by the direction of the Governor;

2. To arrest without writ, rule, order or process any person detected by them in the act of violating any law of the state;

3. When the officer is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the jurisdiction of the Oklahoma Highway Patrol Division, 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 the violator may be overtaken;

4. 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;

5. 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;

6. To require satisfactory proof of ownership of the contents of any motor vehicle, including livestock, poultry or the carcasses thereof. In the event that the proof of ownership is not satisfactory, it shall be the duty of the officer to take the motor vehicle, driver, and the contents of the motor vehicle into custody and deliver the same to the sheriff of the county wherein the cargo, motor vehicle and driver are taken into custody;

7. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of this title, or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver license and the certificate of registration issued for the vehicle, if required to be carried in the vehicle pursuant to paragraph 3 of subsection A of Section 1113 of this title, and submit to an inspection of such vehicle, the license plates and certificate of registration thereon,

if applicable, or to any inspection and test of the equipment of such vehicle;

8. 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;

9. 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;

10. To investigate and report traffic collisions on all interstate and defense highways and on all highways outside of incorporated municipalities, and may investigate traffic collisions within any incorporated municipality upon request of the local law enforcement agency, and to secure testimony of witnesses or of persons involved;

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

12. To stop and inspect any motor vehicle or trailer for such mechanical tests as may be prescribed by the Commissioner to determine the roadworthiness of the vehicle. 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;

13. To stop and inspect the contents of all motor vehicles to ascertain whether or not the provisions of all general laws are being observed;

14. To enforce the laws of the state relating to the registration and licensing of motor vehicles;

15. To enforce the laws relating to the operation and use of vehicles on the highway;

16. 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;

17. To investigate and report to the Corporation Commission and the Oklahoma Tax Commission violation of their rules and the laws governing the transportation of persons and property by motor transportation companies and all other motor carriers for hire;

18. To investigate and report violations of all laws relating to the collection of excise taxes on motor vehicle fuels;

19. To regulate the movement of traffic on the roads of the state highway system; and

20. 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.

C. 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.

D. 1. Except as provided in this subsection, the powers and duties conferred on the Commissioner and officers of the Department of Public Safety shall not limit the powers and duties of sheriffs or other peace officers of the state or any political subdivision of the state.

2. 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 within the boundaries and on the outskirts of a municipality, and

designated by the Commissioner of Public Safety for such special law enforcement authority. As used in this subsection "outskirts of a municipality" means and shall be determined by presence of the following factors:

- a. low land use density,
- b. absence of any school or residential subdivision requiring direct ingress or egress from the highway, and
- c. a scarcity of retail or commercial business abutting the highway.

3. 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 within the boundaries of and on the outskirts of a municipality 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.

4. Any person may request the Commissioner to investigate the traffic-related enforcement practices of a municipal law enforcement agency whose jurisdiction includes portions of the federal-aid primary highways, the state highway system, or both located within the boundaries of and on the outskirts of the municipality. Such request shall state that the requester believes the enforcement practices are being conducted:

- a. within the boundaries of and on the outskirts of the municipality, and

- b. for the purpose of generating more than fifty percent (50%) of the revenue needed for the operation of the municipality, ~~and~~
- ~~c. in such a manner so that the preponderance of citations being issued by the municipal law enforcement agency are for speeding one (1) to ten (10) miles per hour over the posted speed limit.~~

5. Upon receipt of a request pursuant to paragraph 4 of this subsection, the Commissioner shall investigate the traffic-related enforcement practices of the municipal law enforcement agency and the receipts and expenditures of the municipality. Both the law enforcement agency and the municipality shall cooperate fully with the Commissioner in such an investigation. Upon the completion of the investigation, the Commissioner shall submit a report of the results of the investigation to the Attorney General, who shall make a determination within sixty (60) days of receipt of the report as to whether the enforcement practices of the municipal law enforcement agency are being conducted as provided in subparagraphs a, b and c of paragraph 4 of this subsection. Upon a determination that the enforcement practices are not being conducted in such a manner, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall take no action to make a designation as provided in paragraph 3 of this subsection. Upon a determination that the enforcement practices are being conducted as provided in subparagraphs a, b and c of paragraph 4 of this subsection, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall make the designation of special traffic-related enforcement as provided in paragraph 3 of this subsection, which shall stay in force for such time as determined by the Commissioner.

E. Nothing in this section shall limit a member of the Oklahoma Highway Patrol Division from requesting assistance from any other

law enforcement agency nor limit officers of such agency from rendering the requested assistance. The officer and the law enforcement agency responding to the request of the member of the Oklahoma Highway Patrol Division or sheriff's department shall have the same rights and immunities as are possessed by the Oklahoma Highway Patrol Division.

F. No state official shall have any power, right, or authority to command, order, or direct any commissioned law enforcement officer of the Department of Public Safety to perform any duty or service contrary to the provisions of this title or any other laws of this state.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 2-310.1, as last amended by Section 2, Chapter 486, O.S.L. 2003 (47 O.S. Supp. 2003, Section 2-310.1), is amended to read as follows:

Section 2-310.1 A. Whenever any member currently working in a position identified by subsection 6 of Section 2-300 of this title or Section 2-314 of this title and enrolled in the Oklahoma Law Enforcement Retirement System is injured in the line of duty, an Injury Review Board consisting of one member to be appointed by the member's employer, one member to be appointed by the Administrator of the Office of Personnel Management and one member to be appointed by the Governor shall convene to determine if the injured member was actually injured in the line of duty and whether the injured member should be granted leave because of the injury. The Injury Review Board may, in its discretion, grant the injured member leave when necessary, not to exceed one hundred sixty-five (165) working days for the illness or injury.

B. For the purpose of this section, "illness or injury" shall include any serious illness or serious injury caused by or contracted during the performance of the member's duty. Every state agency which employs persons eligible for membership in the Oklahoma Law Enforcement Retirement System shall participate in the joint

promulgation of a rule which shall set out mutually agreeable guidelines for the categorization of an illness or injury as serious. Upon promulgation of the rule, each of the state agencies shall individually adopt the rule. The wording of the rule, as adopted and as amended by the agencies from time to time, shall remain in conformity for each of the state agencies.

~~B.~~ C. The three-member Injury Review Board shall be convened following a written request submitted by the injured member to the injured member's employer. The employer shall forward the request to the Administrator of the Office of Personnel Management. The employer may submit the request on behalf of an injured member. The Administrator's appointee shall then convene and chair the Injury Review Board. The Injury Review Board may request the injured member to submit to an examination by a physician selected by the Board at the employer's expense to assist the Board in making a decision. A decision to grant or deny such paid leave shall be determined by concurrence in writing of not less than two Injury Review Board members. If granted, said leave shall be paid by the employing agency.

SECTION 8. AMENDATORY 47 O.S. 2001, Section 6-102, as amended by Section 3, Chapter 86, O.S.L. 2002 (47 O.S. Supp. 2003, Section 6-102), is amended to read as follows:

Section 6-102. A. A nonresident who is sixteen (16) years of age or older may operate a motor vehicle in this state as authorized by the class, restrictions, and endorsements specified on the license, if the nonresident is:

1. Properly licensed in the home state or country to operate a commercial or noncommercial motor vehicle and who has immediate possession of a valid driver license issued by the home state or country; or

2. A member of the Armed Forces of the United States or the spouse or dependent of such member who has been issued and is in

possession of a valid driver license issued by an overseas component of the Armed Forces of the United States.

B. A resident who is at least fifteen (15) years of age may operate a vehicle in this state without a driver license, if the resident is:

1. Operating a vehicle pursuant to subsection A of Section 6-105 of this title; or

2. Taking the driving skills examination as required by Section 6-110 of this title, when accompanied by a Driver License Examiner of the Department of Public Safety or by a designated examiner approved and certified by the Department.

C. Any person, while in the performance of official duties, may operate any class of motor vehicle if the person possesses any class of valid Oklahoma driver license or a valid driver license issued by another state, if the person is:

1. A member of the Armed Forces of the United States who is on active duty;

2. A member of the military reserves, not including United States reserve technician;

3. A member of the National Guard who is on active duty, including National Guard military technicians;

4. A member of the National Guard who is on part-time National Guard training, including National Guard military technicians; or

5. A member of the United States Coast Guard who is on active duty.

D. The Commissioner of Public Safety is hereby authorized to adopt rules as may be necessary to enter into reciprocity agreements with foreign countries. The rules shall specify that the driver license standards of the foreign county shall be comparable to those of this state. The rules shall also require foreign drivers, who are operating a motor vehicle in Oklahoma under such a reciprocity

agreement, to comply with the compulsory motor vehicle liability insurance and financial responsibility laws of this state.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 6-110, as last amended by Section 2 of Enrolled House Bill No. 1899 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 6-110. A. 1. The Department of Public Safety shall examine every applicant for an original Class A, B, C or D license and for any endorsements thereon, except as otherwise provided in Sections 6-101 through 6-309 of this title or as provided in paragraph 2 of this subsection or in subsection D of this section. Such examination shall include a test of the applicant's:

- a. eyesight,
- b. ability to read and understand highway signs regulating, warning and directing traffic,
- c. knowledge of the traffic laws of this state, and
- d. ability, by actual demonstration, to exercise ordinary and reasonable control in the operation of a motor vehicle. The actual demonstration shall be conducted in the type of motor vehicle for the class of driver license being applied for.

Any licensee seeking to apply for a driver license of another class which is not covered by the licensee's current driver license shall be considered an applicant for an original license for that class.

2. The Department of Public Safety shall have the authority to waive the requirement of any part of the examination required in paragraph 1 of this subsection for those applicants who surrender a valid unexpired driver license issued by any state or country for the same type or types of vehicles, provided that the applicant's driving record meets the standards set by the Department of Public Safety.

3. All applicants requiring a hazardous materials endorsement shall be required, for the renewal of the endorsement, to successfully complete the examination and to submit to the Department a current criminal history record from the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation which shall be used to determine whether the applicant is eligible for renewal of the endorsement pursuant to federal law and regulation.

4. The Department of Public Safety shall give the complete examination as provided for in this section within thirty (30) days from the date the application is received, and the examination shall be given at a location within one hundred (100) miles of the residence of the applicant. The Department shall make every effort to make the examination locations and times convenient for applicants. The Department shall consider giving the examination at various school sites if the district board of education for the district in which the site is located agrees and if economically feasible and practicable.

5. The Department of Public Safety shall provide an alternative method of testing for an applicant for a Class D driver license who is eighteen (18) years of age or older and who can only understand Spanish, subject to the availability of funds. The Department may limit the number of testing sites where the examination in Spanish may be administered.

B. Any person holding a valid Oklahoma Class D license and applying for a Class A, B or C commercial license shall be required to successfully complete all examinations as required for the specified class.

C. Except as provided in subsection E of Section 6-101 of this title, any person holding a valid Oklahoma Class A, B or C commercial license shall, upon time for renewal thereof, be entitled to a Class D license without any type of testing or examination,

except for any endorsements thereon as otherwise provided for by Section 6-110.1 of this title.

~~D. Under the direction of the Department of Public Safety, any Any certified driver education instructor may administer the written portion of the Oklahoma driving examination as required for a driver education course or Class D license. The required driving skills portion of the Oklahoma driving examination may be given by such certified driver education instructor to a student who has successfully completed one of the following:~~

~~1. A prescribed secondary school driver education course, as defined by Section 19-113 et seq. of Title 70 of the Oklahoma Statutes;~~

~~2. A driver education course, certified by the Department of Public Safety, from a parochial, private or other nonpublic secondary school; or~~

~~3. A commercial driver training course, as defined by Sections 801 through 808 of this title.~~

SECTION 10. AMENDATORY 47 O.S. 2001, Section 6-121, is amended to read as follows:

Section 6-121. Any person or the spouse or dependent of a person on active duty with the Armed Forces of the United States living outside the continental limits of the United States having a valid driver license issued by the State of Oklahoma for the operation of motor vehicles upon the highways of the state shall have, without additional charge, a valid driver license for the duration of such service and for a period of sixty (60) days from and after the return of the person or the spouse or dependent of the person to the continental limits of the United States from such service.

SECTION 11. AMENDATORY 47 O.S. 2001, Section 7-609, is amended to read as follows:

Section 7-609. A. Whenever any owner fails to timely furnish proof of insurance or fails to timely respond as required by subsection D of Section 7-608 of this title, the Department of Public Safety shall suspend the person's driving privilege and the registration of any motor vehicle registered in the name of such person as owner which is not covered by security. The suspension shall be effective immediately upon the lapse of the thirty-day response period in subsection D of Section 7-608 of this title. The suspension shall remain in effect until payment is made of the fees provided for in Section 6-212 of this title and proof of insurance is presented to the Department; provided, if the person is not an owner of any motor vehicle or is not subject to the Compulsory Insurance Law of this state or provides proof the vehicle was insured prior to the suspension date, then proof of insurance and payment of the processing and reinstatement fee shall not be required and the Department shall vacate the suspension of the person's driving privilege.

B. Any person whose driving privilege and registration have been suspended pursuant to the provisions of subsection A of this section shall surrender to the Department his or her driver license and the license plate of any motor vehicle registered in his or her name and not covered by security within thirty (30) days from the date of the suspension. Any owner failing to surrender his or her driver license or license plate or plates to the Department within such time shall pay a fee of Fifty Dollars (\$50.00) which shall be in addition to the fees provided for in Section 6-212 of this title.

C. Whenever any person's driving privilege or registration of any motor vehicle is suspended pursuant to this section according to the records of the Department, the Department may accordingly notify any peace officer of the suspension.

D. Any peace officer who has been notified that a person's driving privilege or registration of a motor vehicle is currently

under suspension according to the records of the Department may, upon observing the person or motor vehicle anywhere upon a public street, highway, roadway, turnpike, or public parking lot, within this state, forthwith stop the person or motor vehicle and seize the person's driver license or license plate or both.

E. No person shall have a property interest in a driver license, vehicle registration, or vehicle license plate issued pursuant to the laws of this state and it shall be the duty of every person whose driving privilege or motor vehicle registration has been suspended to forthwith surrender such driver license or license plate or both upon the request of any peace officer or representative of the Department.

F. Any person upon a public street, highway, roadway, turnpike, or public parking lot, within this state, who willfully refuses to surrender possession of a driver license or license plate after being informed by a peace officer or representative of the Department that his or her driving privilege or motor vehicle registration is currently under suspension according to the records of the Department, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than ten (10) days or a fine not to exceed Five Hundred Dollars (\$500.00) or by both such fine and imprisonment.

G. Any driver license or license plate surrendered to or seized by a peace officer pursuant to this ~~section~~ article shall be submitted to a representative of the Department in a manner and with a form or method approved by the Department.

H. The Department shall deposit fees collected pursuant to subsection B of this section and paragraph 3 of subsection A of Section 7-605 of this title in a special account of the Department maintained with the office of the State Treasurer. The State Treasurer shall credit these fees to this special account to be distributed as hereinafter provided.

I. The Department shall identify the name of the employing law enforcement agency from which a suspended driver license or license plate has been received pursuant to this section, and determine that the fee required by subsection B of this section or paragraph 3 of subsection A of Section 7-605 of this title has been paid. The Department shall reimburse the law enforcement agency so identified the sum of Twenty-five Dollars (\$25.00) for each driver license and the sum of Twenty-five Dollars (\$25.00) for each vehicle license plate from the special account.

J. Any unencumbered monies remaining in the special account at the close of each calendar month shall be transferred by the Department to the General Revenue Fund of the State Treasury.

K. The State of Oklahoma, the departments and agencies thereof, including the Department of Public Safety, all political subdivisions, and the officers and employees of each, shall not be held legally liable in any suit in law or in equity for any erroneous entry of a suspension upon the records of the Department, nor for the enforcement of the provisions of the Compulsory Insurance Law, Section 7-600 et seq. of this title, performed in good faith.

SECTION 12. AMENDATORY 47 O.S. 2001, Section 11-106, as amended by Section 1, Chapter 229, O.S.L. 2002 (47 O.S. Supp. 2003, Section 11-106), is amended to read as follows:

Section 11-106. A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privilege set forth in this section, but subject to the conditions herein stated.

B. The driver of an authorized emergency vehicle may:

1. Park, or stand, irrespective of the provisions of this chapter;

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

3. Exceed the maximum speed limits so long as speeding does not endanger life or property;

4. Disregard regulations governing direction of movement; and

5. Disregard regulations governing turning in specified directions.

C. The exemptions herein granted to the driver of an authorized emergency vehicle shall apply only when the driver is properly and lawfully making use of an audible signal or of flashing red or blue lights or a combination of flashing red and blue lights meeting the requirements of Section 12-218 of this title, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red or blue light visible from in front of the vehicle. This subsection shall not be construed as requiring a peace officer operating a police vehicle properly and lawfully in response to a crime in progress to use audible signals.

D. The exemptions in paragraphs 3 and 5 of subsection B of this section shall be granted to a ~~commissioned~~ law enforcement officer ~~of the Department of Public Safety~~ operating an authorized emergency vehicle for law enforcement purposes without using audible and visual signals required by this section as long as the action does not endanger life or property if the officer is following a suspected violator of the law with probable cause to believe that:

1. Knowledge of the presence of the officer will cause the suspect to:

a. destroy or lose evidence of a suspected felony,

b. end a suspected continuing felony before the officer has obtained sufficient evidence to establish grounds for arrest, or

c. evade apprehension or identification of the suspect or the vehicle of the suspect; or

2. Because of traffic conditions, vehicles moving in response to the audible or visual signals may increase the potential for a collision.

The exceptions granted in this subsection shall not apply to an officer who is in actual pursuit of a person who is eluding or attempting to elude the officer in violation of Section 540A of Title 21 of the Oklahoma Statutes.

E. The provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of reckless disregard for the safety of others.

SECTION 13. AMENDATORY 47 O.S. 2001, Section 11-702, as amended by Section 8, Chapter 461, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-702), is amended to read as follows:

Section 11-702. ~~A.~~ The driver of any:

- ~~1. Commercial commercial motor vehicle carrying passengers;~~
 - ~~2. Bus, as that term is defined in Section 1-105 of this title, owned or operated by a licensed child care facility while carrying children;~~
 - ~~3. School bus carrying any school child;~~
 - ~~4. Motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo; or~~
 - ~~5. Commercial motor vehicle required to be placarded for hazardous materials,~~
- ~~before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and~~

~~upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.~~

~~B. No stop need be made at any such crossing where a police officer or a traffic control signal directs traffic to proceed as defined in 49 C.F.R., Section 390.5, shall comply with the railroad crossing provisions as prescribed in 49 C.F.R., Section 392.10.~~

SECTION 14. AMENDATORY Section 3, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-805.4), is amended to read as follows:

Section 11-805.4 Electric mopeds shall be operated as provided in subsections A and B of Section ~~19-211~~ 11-805.3 of ~~Title 47 of the Oklahoma Statutes~~ this title.

SECTION 15. AMENDATORY 47 O.S. 2001, Section 11-902, as last amended by Section 1, Chapter 437, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-902), 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 eight-hundredths (0.08) 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 participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall follow all recommendations made in the assessment and evaluation and be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year. Any person convicted of a violation for a first offense shall be fined not 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 participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall be sentenced to:

- a. follow all recommendations made in the assessment and evaluation with a minimum of twenty-eight (28) days of

treatment followed by thirty (30) days of aftercare at the defendant's expense, or

- b. placement in 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 more than Two Thousand Five Hundred Dollars (\$2,500.00), or
- c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

However, if the treatment in subparagraph a of this paragraph does not include residential or 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 participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall be sentenced to:

- a. follow all recommendations made in the assessment and evaluation at the defendant's expense with a minimum of twenty-eight (28) days of residential or inpatient treatment 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. placement in 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 more than Five Thousand Dollars (\$5,000.00), or

- c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

However, if the treatment in subparagraph a of this paragraph does not include residential or 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 participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall be sentenced to:

- a. follow all recommendations made in the assessment and evaluation at the defendant's expense with a minimum of twenty-eight (28) days residential or inpatient treatment 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. placement in 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 more than Five Thousand Dollars (\$5,000.00), or
- c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

However, if the person does not undergo residential or 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 eight-hundredths (0.08).

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.

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. A person convicted of aggravated driving under the influence shall participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and shall comply with all recommendations and shall be punished by mandatory residential or 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 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 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.

G. 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 certified assessment agency or certified assessor 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 agency or assessor for the evaluation and assessment. The fee for an evaluation and assessment shall be the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation and assessment shall be conducted at a certified assessment agency, the office of a certified assessor or at another location as ordered by the court. The agency or assessor 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 ten-hour or twenty-four-hour alcohol and drug substance abuse course or a treatment program or both, the court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to follow all recommendations identified by the evaluation and assessment and ordered by the court. No person, agency or facility operating an 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 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 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. 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.

H. 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.

I. 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~~ Board of Tests for Alcohol and Drug Influence 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.

J. 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.

K. 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 G of this section. The court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in and successfully complete all recommendations from the evaluation, such as an alcohol and drug substance abuse treatment program pursuant to Section 3-452 of Title 43A of the Oklahoma Statutes.

L. 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.

M. When a person is found guilty of a violation of the provisions of this section, the court shall order, in addition to any other penalty, the defendant to pay a one-hundred-dollar assessment to be deposited in the Drug Abuse Education and Treatment Revolving Fund created in Section 2-503.2 of Title 63 of the Oklahoma Statutes, upon collection.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-1116 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The self-propelled or motor-driven and operated vehicles described in this section shall be prohibited from operating or shall be limited in operation on the streets and highways of this state.

B. Self-propelled or motor-driven cycles, known and commonly referred to as "minibikes" and other similar trade names, shall be prohibited from operating on the streets and highways of this state, except:

1. When used in a parade; or

2. When registered, as required by subsection E of Section 1151 of Title 47 of the Oklahoma Statutes, and operated in this state by food vendor services upon streets having a speed limit of thirty (30) miles per hour or less.

All minibikes offered for sale in this state shall bear the following notice to the customer: "This machine is not manufactured or sold for operation on the public streets or highways. Since it is not provided with equipment required by law for street or highway use, all persons are cautioned that any operation of this vehicle upon a public street or highway will be in violation of the motor vehicle laws of this state and will subject the violator to arrest."

C. Golf carts shall not be operated on the streets and highways of this state except:

1. Golf carts owned by the Oklahoma Tourism and Recreation Department, and operated by employees or agents of the Department or employees of independent management companies working on behalf of the Department, may be operated on the streets and highways of this state during daylight hours or under rules developed by the Oklahoma Tourism and Recreation Commission, when the streets and highways are located within the boundaries of a state park. The Department shall have warning signs placed at the entrance and other locations at those state parks allowing golf carts to be operated on the streets and highways of this state located within the boundaries of those state parks. The warning signs shall state that golf carts may be operating on streets and highways and that motor vehicle operators shall take special precautions to be alert for the presence of golf carts on the streets and highways;

2. The municipal governing body has adopted an ordinance governing the operation of golf carts on city streets, and the operation occurs during daylight hours only;

3. Golf carts may operate on state highways only if making a perpendicular crossing of a state highway located within the boundaries of a municipality which has adopted an ordinance governing the operation of golf carts; or

4. The board of county commissioners of a county has approved the operation of golf cart traffic on roadways within the county, and:

- a. the roadway has a posted speed limit of twenty-five (25) miles per hour or less,
- b. the roadway is located in an unincorporated area, and
- c. appropriate signage, cautioning motorists of the possibility of golf cart traffic, is erected by the board of county commissioners.

D. All-terrain vehicles shall not be operated on the streets and highways of this state, except:

1. On unpaved roads which are located within the boundaries of any property of the Forest Service of the United States Department of Agriculture;

2. On public streets and highways if:

- a. the vehicle needs to make a direct crossing of the street or highway while the vehicle is traveling upon a regularly traveled trail and needs to continue travel from one area of the trail to another and, if the vehicle comes to a complete stop, yields the right-of-way to all oncoming traffic that constitutes an immediate hazard, and crosses the street or highway at an angle of approximately ninety (90) degrees to the direction of the street or highway. This exception shall not apply to divided highways or

streets or highways with a posted speed limit of more than thirty-five (35) miles per hour in the area of the crossing,

- b. the vehicle needs to travel on a public street or highway in order to cross a railroad track. In that event, the all-terrain vehicle may travel for not more than three hundred (300) feet on a public street or highway to cross a railroad track,
- c. the operator of the all-terrain vehicle making the crossing at a street or highway has a valid driver license, and
- d. the operator of the vehicle makes a crossing on a street or highway during daylight hours only;

3. All-terrain vehicles may be operated on city streets if:

- a. the municipal governing body has adopted an ordinance governing the operation of golf carts or all-terrain vehicles on city streets, and
- b. operation occurs during daylight hours only.

SECTION 17. AMENDATORY 47 O.S. 2001, Section 11-1402, as amended by Section 14, Chapter 461, O.S.L. 2003 (47 O.S. Supp. 2003, Section 11-1402), is amended to read as follows:

Section 11-1402. A. Except as otherwise provided herein, enforcement of both traffic laws and the general laws of the State of Oklahoma on the turnpikes shall be the ~~responsibility~~ exclusive authority of the Department of Public Safety, and the cost thereof shall be borne by the Oklahoma Transportation Authority. Provided that the Authority shall be liable only for such costs as may be agreed to by it under contract or agreement with the Commissioner of Public Safety.

B. On the turnpikes, the Oklahoma State Bureau of Investigation shall have the authority to investigate and enforce all laws relating to any crime listed as an exception to the definition of

"nonviolent offense" as set forth in section 571 of Title 57 of the Oklahoma Statutes.

SECTION 18. AMENDATORY 47 O.S. 2001, Section 40-102, as amended by Section 1, Chapter 444, O.S.L. 2002 (47 O.S. Supp. 2003, Section 40-102), is amended to read as follows:

Section 40-102. A. 1. Every law enforcement officer who, in the regular course of duty, investigates or receives a report of a traffic collision resulting in injury to or death of a person or total property damage to an apparent extent of Five Hundred Dollars (\$500.00) or more shall prepare a written report of the collision on the standard collision report form supplied by the Department of Public Safety. Such reports shall be forwarded forthwith by the law enforcement agency preparing the report to the Department of Public Safety.

2. Reports of collisions ~~that occur on or after November 1, 2002,~~ shall be kept confidential for a period of sixty (60) days after the date ~~the report is filed with the Department,~~ of the collision; provided, such reports shall be made available immediately after filing upon request to any:

- a. party involved in the collision,
- b. legal representatives of a party involved in the collision,
- c. state, county or city law enforcement agency,
- d. the Department of Transportation or any county or city transportation or road and highway maintenance agency,
- e. licensed insurance agents of a party involved in the collision,
- f. insurer of a party involved in the collision,
- g. insurer to which a party has applied for coverage,
- h. person under contract with an insurer, as described in subparagraph e, f or g of this paragraph, to provide claims or underwriting information,

- i. prosecutorial authority,
- j. newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes,
- k. radio or television broadcaster, or
- l. licensed private investigators employed by parties to the collision.

3. Any person who knowingly violates this section and obtains or provides information made confidential by this section is guilty of a misdemeanor and shall be fined no more than Two Thousand Five Hundred Dollars (\$2,500.00). Second and subsequent offenses shall carry a penalty of imprisonment in the county jail for not more than thirty (30) days.

B. 1. No public employee or officer shall allow a person to examine or reproduce a collision report or any related investigation report if examination or reproduction of the report is sought for the purpose of making a commercial solicitation. Any person requesting a collision report may be required to state, in writing, under penalty of perjury, that the report will not be examined, reproduced or otherwise used for commercial solicitation purposes. It shall be unlawful and constitute a misdemeanor for any person to obtain or use information from a collision report or a copy thereof for the purpose of making a commercial solicitation.

2. As used in this subsection:

- a. "commercial solicitation" means any attempt to use, or offer for use, information contained in a collision report to solicit any person named in the report, or a relative of such person, or to solicit a professional, business, or commercial relationship. "Commercial solicitation" does not include publication in a newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast of information by news media for news purposes, or obtaining information

for the purpose of verification or settlement of claims by insurance companies, and

- b. "collision report" means any report regarding a motor vehicle collision which has been submitted by an individual or investigating officer on a form prescribed or used by the Department of Public Safety or local police department.

3. Publication in a newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial solicitation purposes. Because publication by a newspaper, broadcast by news media for news purposes, or obtaining information for verification or settlement of claims by insurance companies is not a resale or use of data for commercial purposes, an affidavit shall not be required as a condition for allowing a member of a newspaper or broadcast news media, or allowing an agent, or business serving as an agent, to insurance companies, to examine or obtain a copy of a collision report. Any agent or business obtaining information for verification or settlement of claims involving persons named in a report shall secure an affidavit annually from each client stating the information provided to the client shall not be used for commercial solicitation purposes under penalty of law.

4. The Department and local police departments shall include the following or a similar notice upon any copy of a collision report furnished to others: "Warning - State Law. Use of contents for commercial solicitation is unlawful."

C. 1. In addition to any other penalties or remedies provided by law:

- a. a violation of this section by a health care professional or health care provider shall be grounds for disciplinary action by the state agency licensing,

certifying or registering such professional or provider, and

- b. the state agency licensing, certifying or registering such professional or provider may institute an action to enjoin violation or potential violation of this section.

2. As used in this subsection:

- a. "health care professional" means any person who offers or provides health care services under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes, and
- b. "health care provider" means any hospital or related institution who offers or provides health care services under a license issued pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma Statutes.

D. As used in this section, "newspaper" means a legal newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes, provided that the primary purpose of the newspaper is not the publication of personally identifying information concerning parties involved in the traffic collision.

SECTION 19. AMENDATORY 47 O.S. 2001, Section 153, is amended to read as follows:

Section 153. 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 ~~routine~~ traffic enforcement on a routine basis.

SECTION 20. AMENDATORY 47 O.S. 2001, Section 751, as amended by Section 1, Chapter 410, O.S.L. 2002 (47 O.S. Supp. 2003, Section 751), is amended to read as follows:

Section 751. A. 1. Any person who operates a motor vehicle upon the public roads, highways, streets, turnpikes or other public place within this state shall be deemed to have given consent to a test or tests of such person's blood or breath, for the purpose of determining the alcohol concentration as defined in Section 756 of this title, and such person's blood, saliva or urine for determining the presence and concentration of any other intoxicating substance therein as defined in this section, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place while under the influence of alcohol or other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or if the person is involved in a traffic accident that resulted in the immediate death or serious injury of any person and is removed from the scene of the accident to a hospital or other health care facility outside the State of Oklahoma before a law enforcement officer can effect an arrest.

2. A law enforcement officer, having reasonable grounds to believe that such person was operating or in actual physical control of a motor vehicle while under the influence may direct the administration of or administer the test or tests.

As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. The law enforcement agency by which the arresting officer is employed may designate, in accordance with the rules ~~and regulations~~ of the Board of Tests for Alcohol and Drug Influence, hereinafter referred to as the Board, whether blood or breath is to be tested for the alcohol concentration thereof, and whether blood, saliva or urine is to be tested for the presence and concentration of any other intoxicating substance therein.

In the event the law enforcement agency does not designate the test to be administered, breath shall be the substance tested for alcohol concentration. Blood may also be tested to determine the alcohol concentration thereof in the event that breath cannot be tested to determine the alcohol concentration thereof because of the lack of an approved device or qualified person to administer a breath test or because such breath test for any other reason cannot be administered in accordance with the rules of the Board.

In the event the law enforcement agency does not designate the test to be administered, blood, saliva or urine shall be the substance tested for the presence and concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance.

C. In the event the person is incapable of submitting to and successfully completing, by reason of illness or injury or other physical disability, the test to be administered, an alternate test may be administered in accordance with the rules of the Board.

D. Any person who is unconscious or otherwise incapable of refusing to submit to a test of such person's blood or breath to determine the alcohol concentration thereof, or to a test of such person's blood, saliva or urine to determine the presence and concentration of any other intoxicating substance therein, shall be deemed not to have withdrawn the consent provided by subsection A of this section, and such test may be administered as provided herein.

An unconscious person who has been issued a citation by a law enforcement officer for one of the offenses listed in subsection A of this section is arrested for purposes of this section. The arresting officer must leave a copy of the citation with the arrested person which may be accomplished by handing it to the arrested person, or by leaving it with the personal effects of the arrested party, so as to inform the unconscious person of the arrest.

Any person who has been arrested for one of the offenses listed in subsection A of this section who is unconscious or injured and who requires immediate medical treatment as determined by a treating physician may be released on the person's own recognizance for medical reasons by the arresting officer. The arresting officer who releases an arrested person on the person's own recognizance must indicate the release on the face of the citation. Any person released on his or her own recognizance for medical reasons shall remain at liberty pending the filing of charges.

E. In addition to any test designated by the arresting officer, the arrested person may also designate any additional test to be administered to determine the concentration of alcohol, any other intoxicating substance or the combination of alcohol and any other intoxicating substance. The cost of such additional test shall be at the expense of the arrested person.

A sufficient quantity of any specimen obtained at the designation of the arrested person shall be available to the law enforcement agency employing the arresting officer. Such specimens shall be treated in accordance with the rules applicable to the specimens obtained by an arresting officer.

SECTION 21. AMENDATORY 47 O.S. 2001, Section 752, as amended by Section 2, Chapter 410, O.S.L. 2002 (47 O.S. Supp. 2003, Section 752), is amended to read as follows:

Section 752. A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, certified by the State Board of Medical Licensure and Supervision, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or other qualified person authorized by the Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer may withdraw blood for purpose of having a determination made of its concentration of alcohol or other intoxicating substance. Only qualified persons authorized by the Board may collect breath, saliva or urine, or administer tests of breath under the provisions of this title.

B. If the person authorized to withdraw blood as specified in subsection A of this section is presented with a written statement:

1. Authorizing blood withdrawal signed by the person whose blood is to be withdrawn;

2. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood;

3. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has been placed under arrest and that the officer has probable cause to believe that the person, while intoxicated, has operated a motor vehicle in such manner as to have caused the death or serious physical injury of another person, or the person has been involved in a traffic accident and has been removed from the scene of the accident that resulted in the death or serious injury of any person to a hospital or other health care facility outside the State of Oklahoma before the law enforcement officer was able to effect an arrest for such offense; or

4. In the form of an order from a district court that blood be withdrawn, the person authorized to withdraw the blood and the

hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

C. No person specified in subsection A of this section, no employer of such person, and no hospital or other health care facility where blood is withdrawn shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer by the provisions of Section 751 or 753 of this title, or when acting in reliance upon a signed statement or court order as provided in this section, if the act is performed in a reasonable manner according to generally accepted clinical practice. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of Section 751 or 753 of this title or when acting pursuant to a court order.

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board, or tested by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title, to determine the alcohol concentration thereof, or the presence and concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a motor vehicle safely.

E. When blood is withdrawn or saliva or urine is collected for ~~the appropriate test as determined by the Board~~ testing of its alcohol or other intoxicating substance concentration, at the

request of a law enforcement officer, a sufficient quantity of the same specimen shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess blood, saliva or urine specimen shall be retained by a laboratory approved by the Board, in accordance with the rules and regulations of the Board, or by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title, for sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional blood, saliva or urine specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

F. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in accordance with the rules and regulations of the Board, to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to

the additional specimen of breath, or of its alcohol content, prior to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

H. Tests of blood or breath for the purpose of determining the alcohol concentration thereof, and tests of blood, saliva or urine for the purpose of determining the presence and concentration of any other intoxicating substance therein, under the provisions of this title, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this title, shall have been administered or performed in accordance with the rules and regulations of the Board, or performed by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title.

I. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was

operating or in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, breath, saliva or urine which is appropriate as determined by the Board for the purpose of determining its alcohol concentration or of any other intoxicating substance therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of alcohol, or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

J. ~~A~~ Any agency or laboratory certified by the Board or any agency or laboratory that is exempt from the Board rules pursuant to Section 759 of this title, which analyses breath, blood, or urine shall make available a written report of the results of the test administered by or at the direction of the law enforcement officer shall be made available to the:

1. The tested person, or his or her attorney, and to the;
2. The Commissioner of Public Safety; and
3. The Fatality Analysis Reporting System (FARS) analyst of the state, upon request.

The results of the tests provided for in this title shall be admissible in civil actions.

SECTION 22. AMENDATORY 47 O.S. 2001, Section 754, is amended to read as follows:

Section 754. A. Any arrested person who is under twenty-one (21) years of age and has any measurable quantity of alcohol in the person's blood or breath, or any person twenty-one (21) years of age or older whose alcohol concentration is eight-hundredths (0.08) or more as shown by a breath test administered according to the provisions of this title, or any arrested person who has refused to submit to a breath or blood test, shall immediately surrender his or her driver license, permit or other evidence of driving privilege to the arresting law enforcement officer. The officer shall seize any driver license, permit, or other evidence of driving privilege surrendered by or found on the arrested person during a search.

B. If the evidence of driving privilege surrendered to or seized by the officer has not expired and otherwise appears valid, the officer shall issue to the arrested person a dated receipt for that driver license, permit, or other evidence of driving privilege on a form prescribed by the Department of Public Safety. This receipt shall be recognized as a driver license and shall authorize the arrested person to operate a motor vehicle for a period not to exceed thirty (30) days. The receipt form shall contain and constitute a notice of revocation of driving privilege by the Department effective in thirty (30) days. The evidence of driving privilege and a copy of the receipt form issued to the arrested person shall be attached to the sworn report of the officer and shall be submitted by mail or in person to the Department within seventy-two (72) hours of the issuance of the receipt. The failure of the officer to timely file this report shall not affect the authority of the Department to revoke the driving privilege of the arrested person.

C. Upon receipt of a written blood or breath test report reflecting that the arrested person, if under twenty-one (21) years of age, had any measurable quantity of alcohol in the person's blood or breath, or, if the arrested person is twenty-one (21) years of

age or older, a blood or breath alcohol concentration of eight-hundredths (0.08) or more, accompanied by a sworn report from a law enforcement officer that the officer had reasonable grounds to believe the arrested person had been operating or was in actual physical control of a motor vehicle while under the influence of alcohol as prohibited by law, the Department shall revoke or deny the driving privilege of the arrested person for a period as provided by Section 6-205.1 of this title. Revocation or denial of the driving privilege of the arrested person shall become effective thirty (30) days after the arrested person is given written notice thereof by the officer as provided in this section or by the Department as provided in Section 2-116 of this title.

D. Upon the written request of a person whose driving privilege has been revoked or denied, the Department shall grant the person an opportunity to be heard if the request is received by the Department within fifteen (15) days after the notice of the revocation is given in accordance with this section or Section 2-116 of this title. The sworn report of the officer, together with the results of any test or tests, shall be deemed true, absent any facial deficiency, should the requesting person fail to appear at the scheduled hearing. A timely request shall stay the order of the Department until the disposition of the hearing unless the person is under cancellation, denial, suspension or revocation for some other reason. The Department may issue a temporary driving permit pending disposition of the hearing, if the person is otherwise eligible. If the hearing request is not timely filed, the revocation or denial shall be sustained.

E. 1. At any hearing held relevant to this section, a report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision

thereof, which has been made available to the person by the Commissioner or an authorized representative at least five (5) days prior to the hearing, with reference to all or part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If such report is deemed relevant by either party, the court shall admit such report without the testimony of the person making the report, unless the court, pursuant to this subsection, orders such person to appear.

2. When any alleged controlled dangerous substance has been submitted to the laboratory of the OSBI for analysis, and such analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of such substance shall be released to any other person or laboratory absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

3. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in the hearing when it appears there is a substantial likelihood that material evidence not contained in said report may be produced by the testimony of any person having prepared a report. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.

4. If within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this section requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the person making

the report, the motion is heard, and, if sustained, the testimony ordered can be given.

F. The hearing before the Commissioner of Public Safety or a designated hearing officer shall be conducted in the county of arrest or may be conducted by telephone conference call. The hearing may be recorded and its scope shall cover the issues of whether the officer had reasonable grounds to believe the person had been operating or was in actual physical control of a vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance as prohibited by law, and whether the person was placed under arrest.

1. If the revocation or denial is based upon a breath or blood test result and a sworn report from a law enforcement officer, the scope of the hearing shall also cover the issues as to whether:

- ~~a.~~ ~~the testing procedures used were in accordance with the rules of the Board of Tests for Alcohol and Drug Influence,~~
- ~~b.~~ if timely requested by the person, the person was not denied a ~~timely requested~~ breath or blood test,
- ~~c.~~ b. the specimen was obtained from the person within two (2) hours of the arrest of the person,
- ~~d.~~ c. the person, if under twenty-one (21) years of age, was advised that driving privileges would be revoked or denied if the test result reflected the presence of any measurable quantity of alcohol,
- ~~e.~~ d. the person was informed that a separate testing of the sample taken by the ~~breathalyzer~~ intoxilyzer can be analyzed by the person at his or her own expense within sixty (60) days of the test date,

- ~~f.~~ e. the person, if twenty-one (21) years of age or older, was advised that driving privileges would be revoked or denied if the test result reflected an alcohol concentration of eight-hundredths (0.08) or more, and
- ~~g.~~ f. the test result in fact reflects such alcohol concentration.

2. If the revocation or denial is based upon the refusal of the person to submit to a breath or blood test, reflected in a sworn report by a law enforcement officer, the scope of the hearing shall also include whether:

- a. the person refused to submit to the test or tests, and
- b. the person was informed that driving privileges would be revoked or denied if the person refused to submit to the test or tests.

G. After the hearing, the Commissioner of Public Safety or a designated hearing officer shall order the revocation or denial either rescinded or sustained.

SECTION 23. AMENDATORY 47 O.S. 2001, Section 754.1, is amended to read as follows:

Section 754.1. A. The Department of Public Safety, prior to an administrative hearing for a revocation or denial arising under the provisions of Sections 751 through 754 of this title or under the provisions of Section 6-205.1 of this title, may modify the revocation or denial when it is determined by the Department that no other adequate means of transportation exists for the person whose driving privilege has been revoked or denied.

B. As a prerequisite and condition of any modification, the person shall be required to have installed an ignition interlock device approved by the ~~Department~~ Board of Tests for Alcohol and Drug Influence, at the person's own expense, upon every motor vehicle operated by such person, provided, the Department shall not require as a condition of modification the device to be installed

upon any vehicle owned or leased by an employer of the person, except when the person is self-employed or employed by relatives within the first degree of consanguinity or who resides in the same household, without the employer's written permission to install the ignition interlock device on any vehicle to be operated by the person during the course of employment. The permission to install the ignition interlock device shall be in writing on the official letterhead of the employer. The person shall comply with all provisions of law and rule regarding ignition interlock devices.

C. Upon the issuance of a modification order pursuant to this section or Section 755 of this title, the person shall pay a modification fee of One Hundred Fifty Dollars (\$150.00) to the Department. For each modification fee collected pursuant to the provisions of this section, One Hundred Dollars (\$100.00) shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury and Fifty Dollars (\$50.00) shall be remitted to the State Treasurer to be credited to the Department of Public Safety Revolving Fund. All monies accruing to the credit of the Department of Public Safety Revolving Fund from modification fees shall be budgeted and expended solely for the purpose of administering the provisions of this section and Section 755 of this title.

D. The Board of Tests for Alcohol and Drug Influence shall promulgate such rules as are necessary to implement and administer the provisions of this subsection relating to ignition interlock devices and the providers of such devices.

SECTION 24. AMENDATORY 47 O.S. 2001, Section 759, as last amended by Section 1 of Enrolled House Bill No. 2435 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 759. A. There is hereby re-created, to continue until July 1, 2006, in accordance with the provisions of the Oklahoma

Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, the Board of Tests for Alcohol and Drug Influence to be composed of the Dean of the University of Oklahoma College of Medicine, or the Dean's designee who shall receive an appointment in writing, as Chairman, and the Commissioner of Public Safety or a designee, the Director of the Oklahoma State Bureau of Investigation or a designee, the State Commissioner of Health or a designee, the Director of the Council on Law Enforcement Education and Training or a designee, one certified peace officer who is a member of a local law enforcement agency selected by the Oklahoma Sheriffs and Peace Officers Association and one person selected by the Oklahoma Association of Chiefs of Police, as members, to serve without pay other than reimbursement of necessary and actual expenses as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. Each designee shall receive an appointment in writing which shall become a permanent part of the records of the Board. The Board is authorized to appoint a State Director of Tests for Alcohol and Drug Influence, an Administrative Assistant to the Board, and other employees, including but not limited to persons to conduct training and provide administrative assistance as necessary for the performance of its functions, subject to available funding and authorized full-time equivalent employee limitations. The Board may expend appropriated funds for purposes consistent with Sections 751 through 761 of this title and Sections 301 through 308 of Title 3 of the Oklahoma Statutes. The Legislature shall appropriate funds to the Department of Public Safety for the support of the Board of Tests For Alcohol and Drug Influence and its employees, if any. Upon the transfer of any employees from the Alcohol Drug Countermeasures Unit of the Department of Public Safety to the Board of Tests For Alcohol and Drug Influence on the effective date of this act all funds of the Unit appropriated and budgeted shall be transferred to the Board,

and may be budgeted and expended to support the functions and personnel of the Board.

B. Collection and analysis of a person's blood, breath, saliva or urine, to be considered valid and admissible in evidence, whether performed by or at the direction of a law enforcement officer or at the request of the tested person, shall have been performed in compliance with the rules adopted by the Board of Tests for Alcohol and Drug Influence and by an individual possessing a valid permit issued by the Board for this purpose or shall have been performed by a laboratory accredited in Toxicology by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or accredited by the American Board of Forensic Toxicology (ABFT).

C. The Board of Tests for Alcohol and Drug Influence is authorized to approve laboratories for the analysis, provided by the provisions of this title, of specimens of blood, breath, saliva and urine, and to administer a program for regular monitoring of such laboratories. The Board is authorized to prescribe uniform standards and conditions for, and to approve satisfactory methods, procedures, techniques, devices, equipment and records for tests and analyses and to prescribe and approve the requisite education and training for the performance of such tests and analyses. The Board shall establish standards for and ascertain the qualifications and competence of individuals to administer and conduct such tests and analyses, and to issue permits to laboratories and to individuals which shall be subject to suspension or revocation at the discretion of the Board. The Board is authorized to prescribe uniform standards, conditions, methods, procedures, techniques, devices, equipment and records for the collection, handling, retention, storage, preservation and delivery of specimens of blood, breath, saliva and urine obtained for the purpose of determining the alcohol concentration thereof or the presence and concentration of any other

intoxicating substance therein. The Board may take such other actions as may be reasonably necessary or appropriate to effectuate the purposes of Sections 751 through 761 of this title and Sections 301 through 308 of Title 3 of the Oklahoma Statutes, and may adopt, amend and repeal such other rules consistent with this chapter as the Board shall determine proper. Laboratories accredited in Toxicology by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or accredited by the American Board of Forensic Toxicology (ABFT) are exempt from the provisions of this subsection.

D. The Board may set rules and charge appropriate fees for operations incidental to its required duties and responsibilities.

E. There is hereby created in the State Treasury a revolving fund for the Board of Tests for Alcohol and Drug Influence to be designated the "Board of Tests for Alcohol and Drug Influence Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received pursuant to the provisions of subsection D of this section and any funds previously deposited in the Board of Tests for Alcohol and Drug Influence Revolving Fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Board of Tests for Alcohol and Drug Influence for operating expenses of the Board. Expenditures from the funds shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 25. AMENDATORY 47 O.S. 2001, Section 951, as last amended by Section 8, Chapter 279, O.S.L. 2003 (47 O.S. Supp. 2003, Section 951), is amended to read as follows:

Section 951. As used in Sections 951 through 964 of this title:

1. "Wrecker or wrecker vehicle" means any motor vehicle that is equipped with any device designed to tow another vehicle or

combination of vehicles. The use of the term "wrecker" or "wrecker vehicle" shall be construed to include a combination wrecker or combination wrecker vehicle, as defined in paragraph 2 of this subsection, unless a specific differentiation is otherwise described;

2. "Combination wrecker" or "combination wrecker vehicle" means any wrecker vehicle which is designed and equipped with two separate and distinct devices to tow simultaneously two or more other vehicles or combinations of vehicles, whether or not both devices are in use simultaneously. One of the devices shall allow another vehicle to be loaded onto and transported upon the wrecker vehicle, and one of the devices shall allow another vehicle to be attached to and pulled by the wrecker vehicle;

3. "Tow" or "towing" means the use of a wrecker vehicle to lift, pull, move, haul or otherwise transport any other vehicle by means of:

- a. attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or
- b. loading the vehicle onto and transporting the vehicle upon the wrecker vehicle;

4. "Rollback equipment" means a towing device or equipment upon which the towed vehicle is loaded and transported, removing the towed vehicle completely from the surface of the roadway. The term "rollback equipment" shall include car haulers;

5. "Dolly" means a towing device or equipment which lifts and suspends one axle of the towed vehicle above the surface of the roadway;

6. "Wrecker or towing service" means engaging in the business of or performing the act of towing or offering to tow any vehicle, except:

- a. where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly

visible letters not less than two (2) inches in height
the words "NOT FOR HIRE",

- b. where the service is performed by a transporter as defined in Section 1-181 of this title,
- c. where service is performed in conjunction with the transportation of household goods and property,
- d. where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or
- e. where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, ~~and~~ the vehicle is not involved in a collision, and is being towed:

(1) in either direction across the border between Oklahoma and a neighboring state, or

(2) through Oklahoma in transit to another state;
provided, the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law;

7. "Commissioner" means the Commissioner of Public Safety;

8. "Department" means the Department of Public Safety;

9. "Operator" means any person owning or operating a wrecker vehicle or wrecker or towing service;

10. "Officer" means any duly authorized law enforcement officer;

11. "Roadway" means any public street, road, highway or turnpike or the median, easement or shoulder of a roadway;

12. "Service call" means the act of responding to a request for service with a wrecker vehicle in which a service is performed; and

13. "Vehicle" shall:

- a. have the same meaning as defined in Section 1-186 of this title, and

- b. for the purposes of this chapter when referring to a vehicle or combination of vehicles being towed or stored, include a vessel. The term "vessel" shall have the same meaning as defined in Section 4002 of Title 63 of the Oklahoma Statutes.

SECTION 26. AMENDATORY 47 O.S. 2001, Section 953, is amended to read as follows:

Section 953. A. No operator shall be permitted nor shall any employee of any operator be permitted, allowed or caused to solicit business or make service calls without the operator first having obtained from the Department of Public Safety a license to operate a wrecker or towing service. The number of the license shall be displayed, in conformance with rules of the Department, on both sides of every wrecker vehicle operated by the wrecker or towing service.

B. The license fee required by this section shall be in lieu of the motor carrier filing fee as required in Section 165 of this title. No applicant for a wrecker license shall be required to prove public convenience and necessity, file notices, nor shall a public hearing be held. The fee for such license shall be One Hundred Dollars (\$100.00), of which Ten Dollars (\$10.00) shall be allocated to the Department for the administration of Section 951 et seq. of this title.

C. All licenses shall expire on the last day of the calendar year and may be renewed annually at a cost of Fifty Dollars (\$50.00) upon application to the Department as prescribed by rule. No license fee shall be refunded in the event that the license is suspended or revoked.

D. The Department shall issue a letter of reprimand, cancel, suspend, revoke, or refuse to issue or renew the license of an operator when it finds the licensee or applicant has not complied with or has violated any of the provisions of Section 951 et seq. of

this title, or any rules adopted by the Department. A suspension or revocation shall be for a period of time deemed appropriate by the Department for the violation. Any canceled, suspended, or revoked license shall be returned to the Department by the operator, and the operator shall not be eligible to apply for another license until the period of suspension or revocation has elapsed.

E. The provisions of the Oklahoma Administrative Procedures Act are expressly made applicable to Section 951 et seq. of this title.

F. In any civil action to enforce the equal application of the alternation or rotation of wrecker or towing services regulated by a political subdivision of the state, the prevailing party shall be allowed attorney fees determined by the court, to be taxed and collected as costs.

G. Fees collected pursuant to the provisions of this section shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury except as provided by subsection H of this section.

H. Fees allocated to the Department by this section shall be deposited in the Department of Public Safety Revolving Fund.

SECTION 27. AMENDATORY 47 O.S. 2001, Section 1151, as amended by Section 1, Chapter 59, O.S.L. 2002 (47 O.S. Supp. 2003, Section 1151), is amended to read as follows:

Section 1151. A. It shall be unlawful for any person to commit any of the following acts:

1. To lend or to sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title, license plate or decal issued to or in the custody of the person so lending or permitting the use thereof;

2. To alter or in any manner change a certificate of title, registration certificate, license plate or decal issued under the laws of this or any other state;

3. To procure from another state or country, or display upon any vehicle owned by such person within this state, except as otherwise provided in the Oklahoma Vehicle License and Registration Act, any license plate issued by any state or country other than this state, unless there shall be displayed upon such vehicle at all times the current license plate and decal assigned to it by the Oklahoma Tax Commission or the vehicle shall display evidence that the vehicle is registered as a nonresident vehicle pursuant to rules promulgated by the Tax Commission, with the concurrence of the Department of Public Safety. A violation of the provisions of this paragraph shall be presumed to have occurred if a person who is the holder of an Oklahoma driver license operates a vehicle owned by such person on the public roads or highways of this state and there is not displayed on the vehicle a current Oklahoma license plate and decal, unless the vehicle is owned by a member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders or the spouse of such a member of the Armed Forces;

4. To drive, operate or move, or for the owner to cause or permit to be driven or moved, upon the roads, streets or highways of this state, any vehicle loaded in excess of its registered laden weight, or which is licensed for a capacity less than the manufacturer's rated capacity as provided for in the Oklahoma Vehicle License and Registration Act;

5. To operate a vehicle without proper license plate or decal or on which all taxes due the state have not been paid;

6. To buy, sell or dispose of, or possess for sale, use or storage, any secondhand or used vehicle on which the registration or license fee has not been paid, as required by law, and on which vehicle the person neglects, fails or refuses to display at all times the license plate or decal assigned to it;

7. To give a fictitious name or fictitious address or make any misstatement of facts in application for certificate of title and registration of a vehicle;

8. To purchase a license plate on an assigned certificate of title. This particular paragraph shall be applicable to all persons except a bona fide registered ~~dealers~~ dealer in used cars who are holders of a current and valid used car ~~dealers' licenses~~ dealer license;

9. To operate a vehicle upon the highways of this state after the registration deadline for that vehicle without a proper license plate, as prescribed by the Oklahoma Vehicle License and Registration Act, for the current year;

10. For any owner of a vehicle registered on the basis of laden weight to fail or refuse to weigh or reweigh it when requested to do so by any enforcement officer charged with the duty of enforcing this law;

11. To operate or possess any vehicle which bears a motor number or serial number other than the original number placed thereon by the factory except a number duly assigned and authorized by the state;

12. For any motor license agent to release a license plate, a manufactured home registration receipt, decal or excise tax receipt to any unauthorized person or source, including any dealer in new or used motor vehicles. Violation of this paragraph shall constitute sufficient grounds for discharge of a motor license agent by the Tax Commission;

13. To operate any vehicle registered as a commercial vehicle without the lettering requirements of Section 1102 of this title; or

14. To operate any vehicle in violation of the provisions of Sections 7-600 through 7-606 of this title while displaying a yearly decal issued to the owner who has filed an affidavit with the

appropriate motor license agent in accordance with Section 7-607 of this title.

Any person convicted of violating any provision of this subsection, other than paragraph 3 of this subsection, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed One Hundred Dollars (\$100.00). Any person convicted of violating the provisions of paragraph 3 of this subsection shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00) and shall be required to obtain an Oklahoma license plate. Employees of the Motor Vehicle Division of the Tax Commission may be authorized by the Tax Commission to issue citations for a violation of paragraph 5 of this subsection. If a person convicted of violating the provisions of paragraph 5 of this subsection was issued a citation by a duly authorized employee of the Motor Vehicle Division of the Tax Commission, the fine herein levied shall be deposited to the Oklahoma Tax Commission Revolving Fund.

B. Except as otherwise authorized by law, it shall be unlawful to:

1. Lend or sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title issued for a manufactured home, manufactured home registration receipt, manufactured home registration decal or excise tax receipt;

2. Alter or in any manner change a certificate of title issued for a manufactured home under the laws of this state or any other state;

3. Remove or alter a manufactured home registration receipt, manufactured home registration decal or excise tax receipt attached to a certificate of title or attach such receipts to a certificate of title with the intent to misrepresent the payment of the required excise tax and registration fees;

4. Buy, sell, or dispose of, or possess for sale, use or storage any used manufactured home on which the registration fees or excise taxes have not been paid as required by law; or

5. Purchase identification, manufactured home registration receipt, manufactured home registration decal or excise tax receipt on an assigned certificate of title.

Anyone violating the provisions of this subsection, upon conviction, shall be guilty of a felony.

C. In the event a new vehicle is not registered within thirty (30) days from date of purchase, the penalty for the failure of the owner of the vehicle to register the vehicle within thirty (30) days shall be Twenty-five Dollars (\$25.00), provided that in no event shall the penalty exceed an amount equal to the license fee. The penalty for new commercial vehicles shall be equal to the license fee for such vehicles.

If a used vehicle is brought into Oklahoma by a resident of this state and is not registered within thirty (30) days, a penalty of twenty-five cents (\$0.25) per day shall be charged from the date of entry to the date of registration, such penalty to accrue for thirty (30) days, upon failure to register, at the end of which time the penalty shall be Twenty-five Dollars (\$25.00), provided that in no event shall the penalty exceed an amount equal to the license fee. The penalty for used commercial vehicles shall be equal to the license fee for such vehicles.

D. Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the registration of one or more vehicles shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment.

~~E. Self-propelled or motor-driven cycles, known and commonly referred to as "minibikes" and other similar trade names, The following self-propelled or motor-driven and operated vehicles shall not be registered under the provisions of the Oklahoma Vehicle License and Registration Act or, except as provided for in Section 16 of this act, be permitted to be operated on the streets or highways of this state. Provided that minibikes may be operated on the streets when used in a parade. Notwithstanding other provisions of this subsection,;~~

1. Vehicles known and commonly referred to as "minibikes" and other similar trade names; provided, minibikes may be registered and operated in this state by food vendor services upon streets having a speed limit of thirty (30) miles per hour or less.;

~~All minibikes offered for sale in this state shall bear the following notice to the customer:~~

~~"This machine is not manufactured or sold for operation on the public streets or highways. Since it is not provided with equipment required by law for street or highway use, all persons are cautioned that any operation of this vehicle upon a public street or highway will be in violation of the motor vehicle laws of this state and will subject the violator to arrest."~~

2. Golf carts;

3. Go-carts;

4. All-terrain vehicles; and

5. Other motor vehicles which are manufactured principally for use off the streets and highways.

Transfers and sales of such vehicles shall be subject to sales tax and not motor vehicle excise taxes.

~~The provisions of this subsection shall also apply to those motor-driven or operated vehicles known as "golf carts", "go-carts" and other motor vehicles which are manufactured principally for use~~

~~off the streets and highways. Provided that golf carts owned by the Oklahoma Tourism and Recreation Department, and operated by employees or agents of the Department or employees of independent management companies working on behalf of the Department, may be operated on the streets and highways of this state during daylight hours or under regulation developed by the Oklahoma Tourism and Recreation Commission, when such streets and highways are located within the boundaries of a state park. The Department shall have warning signs placed at the entrance and other locations at those state parks allowing golf carts to be operated on the streets and highways of this state located within the boundaries of those state parks. The warning signs shall state that golf carts may be on such streets and highways and that motor vehicle operators shall take special precautions to be alert for the presence of the golf carts on such streets and highways.~~

~~The provisions of this subsection shall also apply to those motor-driven or operated vehicles known as "all-terrain vehicles", which are manufactured principally for use off the roads. All-terrain vehicles may be operated on unpaved roads which are located within the boundaries of any property of the Forest Service of the United States Department of Agriculture. Also, all-terrain vehicles may operate upon the public streets and highways of this state under the following circumstances:~~

- ~~1. An all-terrain vehicle may be operated upon public streets and highways if the vehicle needs to make a direct crossing of the street or highway while the vehicle is traveling upon a regularly traveled trail and needs to continue travel from one area of the trail to another and if the vehicle comes to a complete stop, yields the right-of-way to all oncoming traffic that constitutes an immediate hazard, and crosses the street or highway at an angle of approximately ninety (90) degrees to the direction of the street or highway. This exception shall not apply to divided highways or~~

~~streets or highways with a posted speed limit of more than thirty-five (35) miles per hour in the area of the crossing;~~

~~2. The operator of the all-terrain vehicle making the crossing at a street or highway has a valid driver license; and~~

~~3. The operation of the vehicle making a crossing on a street or highway occurs during daylight hours only.~~

F. Any person violating paragraph 3 or 6 of subsection A of this section, in addition to the penal provisions provided in this section, shall pay as additional penalty a sum equal to the amount of license fees due on such vehicle or registration fees due on a manufactured home known to be in violation and such amount is hereby declared to be a lien upon the vehicle as provided in the Oklahoma Vehicle License and Registration Act. In addition to the penalty provisions provided in this section, any person violating paragraph 3 of subsection A of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine of One Hundred Dollars (\$100.00) and the suspension of such person's driver license and right to operate the vehicle.

G. Each violation of any provision of the Oklahoma Vehicle License and Registration Act for each and every day such violation has occurred shall constitute a separate offense.

H. Anyone violating any of the provisions heretofore enumerated in this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10.00) and not to exceed One Hundred Dollars (\$100.00).

I. Any violation of any portion of the Oklahoma Vehicle License and Registration Act where a specific penalty has not been imposed shall constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars (\$10.00) and not to exceed One Hundred Dollars (\$100.00).

J. Any provision of Section 1101 et seq. of this title providing for proportional registration under reciprocal agreements

and the International Registration Plan that relates to the promulgation of rules and regulations shall not be subject to the provisions of this section.

SECTION 28. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 7 of Enrolled House Bill No. 2280 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and Oklahoma Department of Career and Technology Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier.

However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period and seasonal employees employed pursuant to Section 1806.1 of this title who work less than one thousand two hundred (1,200) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Department of Public Safety employees occupying the following offices or positions:

- a. ~~two~~ administrative aides to the Commissioner,
- b. executive secretaries to the Commissioner,
- c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,
- d. Highway Patrol Colonel,
- e. Highway Patrol Lieutenant Colonel,
- f. Highway Patrol Major,
- g. Director of Finance,
- h. noncommissioned pilots,
- i. Information Systems Administrator,
- j. Law Enforcement Telecommunications System Specialist,
- k. Director of Driver License Administration,
- l. Director of Transportation Division,
- m. Director of the Alcohol and Drug Countermeasures Unit,
- n. Director of the Oklahoma Highway Safety Office,
- o. Civil Rights Administrator,
- p. Budget Analyst,
- q. Comptroller,
- r. Law Enforcement Highway Patrol Administrator, ~~and~~
- s. Director of Safety Compliance, and

t. a maximum of seven positions for the purpose of administering the Oklahoma Police Corps Program, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued; provided, any person appointed to a position prescribed in subparagraphs d, e, f or o of this paragraph shall have a right of return to the classified commissioned position without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position, and any person appointed to a position prescribed in subparagraph i, j, k, l, m or n of this paragraph shall have a right of return to the previously held vacant classified position within the Department of Public Safety without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with The Oklahoma State System of Higher Education. For purposes of this section, a student

shall be considered a regularly enrolled student if the student is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or

c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's full-time-equivalent (FTE) employee limit;

14. Employees of the House of Representatives, the State Senate, or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,

- g. Public Utility Division Deputy Director,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,
- m. Public Utility Division Chief of Telecommunications,
and
- n. Director of Information Services;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Bill Willis Community Mental Health and Substance Abuse Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Division Manager,
- c. Network Manager,
- d. Network Technician,
- e. Employees of the Budget Division, and
- f. Employees of the Research Division;

19. Employees of the Oklahoma Development Finance Authority;

20. Those positions so specified in the annual business plan of the Oklahoma Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

- a. the Carl Albert Internship Program Coordinator, and
- b. one Administrative Assistant;

24. Department of Labor personnel occupying the following offices and positions:

- a. two Deputy Commissioners,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. two Administrative Assistants;

25. The State Bond Advisor and his or her employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. The officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

- a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on the effective date of this act may make an election to be in the classified service without a loss in salary by September 1, 2003, and
- b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;

31. The Oklahoma State Bureau of Investigation employees occupying the following positions:

- a. five assistant directors,
- b. two special investigators,
- c. one information representative,
- d. one federally funded physical evidence technician,
- e. four federally funded laboratory analysts,
- f. one Data Base Administrator,
- g. two Data Processing Branch Managers,
- h. four Senior Data Processing Applications Specialists,
- i. a total of three positions from the following classes:
Senior Data Processing Systems Specialists, Data

Processing Applications Specialists, or Data
Processing Systems Specialists,

- j. one Senior Computer Services Technician, or Computer Services Technician,
- k. one Senior Computer Services Coordinator, or Computer Services Coordinator, and
- l. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics Commission,
- b. five Department of Transportation Assistant Director positions,
- c. eight field division engineer positions, and
- d. one pilot position;

33. Commissioners of the Land Office employees occupying the following positions:

- a. Director of the Investments Division,
- b. Assistant Director of the Investments Division, and
- c. one Administrative Assistant;

34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

- a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,
- c. one fiscal officer,
- d. one full-time Programmer, and
- e. one full-time Network Engineer;

35. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

36. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

37. The following positions and employees of the Department of Central Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing,
- c. one Alternate Fuels Administrator,
- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. one Contracts Manager,
- i. one Associate Director,
- j. one specialized HiTech/Food Contracting Officer, and
- k. one State Use Contracting Officer;

38. Four Water Quality Specialists, and four Water Resources Division Chiefs within the Oklahoma Water Resources Board;

39. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

- a. Physical Therapists,
- b. Physical Therapist Assistants,
- c. Occupational Therapists,
- d. Certified Occupational Therapist Aides, and
- e. Speech Pathologists;

40. The Development Officer and the Director of the State Museum of History within the Oklahoma Historical Society;

41. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,
- b. eighteen Agricultural Marketing Coordinator III positions,
- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,
- d. one Administrator for Human Resources,
- e. one Director of Administrative Services,
- f. one Water Quality Consumer Complaint Coordinator,
- g. one hydrologist position,

- h. Public Information Office Director,
- i. Market Development Services Director,
- j. Legal Services Director,
- k. Animal Industry Services Director,
- l. Water Quality Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director,
- o. one Grants Administrator position,
- p. Director of Laboratory Services,
- q. Chief of Communications,
- r. Public Information Manager,
- s. Inventory/Supply Officer,
- t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,
- u. Rural Fire Coordinator,
- v. Poultry Coordinator,
- w. Food Safety Division Director, and
- x. one Mammal Control Officer;

42. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

43. The Development Officer within the Oklahoma Department of Libraries;

44. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

- a. Educational Program Director, and
- b. Data Processing Manager;

45. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

46. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

47. All officers and employees of the Oklahoma Motor Vehicle Commission;

48. One Museum Archivist of The Will Rogers Memorial Commission;

49. One Fire Protection Engineer of the Office of the State Fire Marshal;

50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately

upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence; and

51. The Oklahoma Homeland Security Director and all other positions assigned the responsibilities of working in the Oklahoma Office of Homeland Security.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and nurses;
2. Certified public accountants;
3. Licensed attorneys;
4. Licensed veterinarians; and
5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later

than December 31, 2005, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2005. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

SECTION 29. REPEALER 47 O.S. 2001, Section 1151.1, as last amended by Section 40, Chapter 3, O.S.L. 2003 (47 O.S. Supp. 2003, Section 1151.1), is hereby repealed.

SECTION 30. This act shall become effective July 1, 2004.

SECTION 31. 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.

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