

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 425

By: Helton

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 2001, Sections 2-105, 2-105.2, 4-105, 11-801, 11-1010, 14-103, as amended by Section 1, Chapter 286, O.S.L. 2002, 40-102, as amended by Section 1, Chapter 444, O.S.L. 2002, 951, as amended by Section 1, Chapter 66, O.S.L. 2002, and 964 (47 O.S. Supp. 2002, Sections 14-103, 40-102 and 951), which relate to personnel of the Highway Patrol Division, Public Safety Patrol Schools, stolen or unclaimed vehicles, speed restrictions, erection of parking signs, width, height and length of vehicle load, and traffic accidents which result in injury or death; deleting statutory reference; providing for certain personnel in unclassified positions to return to classified commissioned positions within the Highway Patrol Division; renaming the Public Safety Patrol Schools; deleting obsolete outline format; updating statutory reference; adding exception for speed limit for school buses on multi-lane divided highway; declaring pins used as safety precaution are necessary for the safe and efficient operation of certain vehicles; modifying definition; modifying number of days to make report on vehicles which have been stored or parked; amending 73 O.S. 2001, Section 96, which relates to parking in the vicinity of the State Capitol; deleting obsolete language; amending 74 O.S. 2001, Sections 840-5.5, as last amended by Section 1, Chapter 435, O.S.L. 2002, and 1811.4C (74 O.S. Supp. 2002, Section 840-5.5), which relate to unclassified offices, positions and personnel, and primary law enforcement agency in certain parks and State Capitol Complex; adding class code for certain persons; deleting the Department of Public Safety as the primary law enforcement agency for the Cowboy Hall of Fame Park; amending 75 O.S. 2001, Section 250.4, as amended by Section 12, Chapter 402, O.S.L. 2002 (75 O.S. Supp. 2002, Section 250.4) which relates to the Administrative Procedures Act; adding exemption for Commissioner of Public Safety relating to maintaining a current incorporation of federal commercial driver license regulations; repealing 47 O.S. 2001, Sections 2-132, 7-319, 7-327, 7-328, 7-329 and 7-401, which relate to remittance of certain funds, proof for financial responsibility of registered vehicle, surety bonds as proof of financial responsibility, surety bonds constituting a lien, action on surety bond, and violations for transferring suspended registration; exempting the Commissioner of Public Safety from certain statutory references; requiring

the Commissioner to promulgate rules to maintain current incorporation of federal motor carrier safety and hazardous material regulations; providing for adoption of rules; providing for filing of rules; providing for codification; providing for recodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-105, is amended to read as follows:

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

1. A Chief of the Oklahoma Highway Patrol Division with the rank of Colonel, Assistant Chief of the Oklahoma Highway Patrol Division with the rank of Lieutenant Colonel, and subordinate officers and employees of the Oklahoma Highway Patrol Division, including ~~Colonels~~, Majors, Captains, First Lieutenants, Supervisors with the rank of Second Lieutenant, Sergeants, and Highway Patrolmen with the rank of Trooper, who shall comprise the Oklahoma Highway Patrol Division of the Department of Public Safety; provided, any person appointed to a 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 classified commissioned position of Captain 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 not less than twenty-one (21) years of age nor more than thirty-seven (37) 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,

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

- i. a bachelor's degree from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions, or
 - ii. an associate's degree or a minimum of sixty-two (62) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions and at least two (2) years' experience as a Council on Law Enforcement Education and Training (C.L.E.E.T.) certified law enforcement officer, or
- b. for any such position in the Communications Division, a person shall be at least twenty (20) years of age and shall possess a high school diploma or General Educational Development equivalency certificate; shall possess either six (6) months of previous experience as a dispatcher or fifteen (15) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions.

3. No commissioned officer of the Department shall, while in such position, be a candidate for any political office or take part

in or contribute any money or other thing of value, directly or indirectly, to any political campaign or to any candidate for public office. Anyone convicted of violating the provisions of this paragraph shall be guilty of a misdemeanor and shall be punished as provided by law.

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

5. Drunkenness 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 interagency transfer to the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act, Section 840-1.1 et seq. of Title 74 of the Oklahoma Statutes, unless transfer is in violation of Section 840-2.5 or 840-2.9 of Title 74 of the Oklahoma Statutes.

4. The Department of Public Safety shall follow the uniform grievance procedure established and adopted by the Office of Personnel Management for permanent classified employees, except for those employees who are commissioned officers of the Department. The Department of Public Safety shall establish and adopt a proprietary grievance procedure for commissioned officers of the

Department which is otherwise in compliance with the provisions of Section 840-6.2 of Title 74 of the Oklahoma Statutes.

E. 1. The Commissioner is hereby authorized to purchase and issue uniforms and necessary equipment for all commissioned officers of the Highway Patrol Division of the Department. All uniforms and equipment shall be used only in the performance of the official duties of such officers and shall remain the property of the Department, except as provided in Section ~~2-313~~ 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 Chief of the Oklahoma Highway Patrol Division shall be filled from the body of commissioned officers of the Oklahoma Highway Patrol Division and appointment to said position shall be based on qualifications, previous record as a commissioned officer of the Oklahoma Highway Patrol Division, length of service, and efficiency of service performed.

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

H. 1. Any former commissioned officer of the Department whose separation from the Department was at such officer's own request and not a result of such officer's own actions contrary to the policy of the Department or was not as a result of the retirement of that

officer from the Department may make application for reinstatement as a commissioned officer of the division or section of the Department in which such officer was previously employed, provided such reinstated officer will be able to complete twenty (20) years of credited service by the time the reinstated officer reaches fifty-seven (57) years of age. The Commissioner may waive the requirements of possessing the number of semester hours or degree as required in subsection B of this section for any former commissioned officer making application for reinstatement as a commissioned officer of the Department. The Commissioner may require the applicant for reinstatement to attend selected courses of instruction, as prescribed by the Commissioner.

2. In the event of future hostilities wherein the Congress of the United States declares this nation in a state of war with a foreign nation, including military service brought about by the Vietnam War, any period of military service served by a commissioned officer of the Department shall be considered as continued service with such Department, provided such commissioned officer returns to duty with the Department within sixty (60) days after release from military service.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-105.2, is amended to read as follows:

Section 2-105.2 The Department of Public Safety is authorized to conduct ~~Public Safety Highway Patrol Schools~~ Academies as may be required and within the funds available to the Department. Provided, however, that no such ~~school will~~ academy shall be commenced nor shall any funds be expended ~~therefor~~ for an academy until ~~each individual school~~:

1. The academy has been approved for implementation by the Contingency Review Board; or ~~the~~

2. The Legislature has ~~previously~~ authorized ~~that school~~ the academy.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 4-105, is amended to read as follows:

Section 4-105. ~~(a)~~ A. It shall be the duty of every sheriff, chief of police or peace officer to make immediate report to the Department of Public Safety of all vehicles reported to their respective jurisdictions as being stolen ~~or~~ or recovered. Such report shall be made as prescribed by the Department.

~~(b)~~ B. An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the Department, but the Department may disregard the report of a conversion unless a warrant has been issued for the arrest of a person charged with the conversion. A person who has so reported the theft or conversion of a vehicle shall, forthwith after learning of its recovery, report the recovery to the Department.

~~(c)~~ C. An operator of a place of business for garaging, repairing, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of thirty (30) days, shall, within five (5) days after the expiration of that period, report the vehicle as unclaimed to the Department. Such report shall be on a form prescribed by the Department.

A vehicle left by its owner whose name and address are known to the operator or his employee is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this subsection forfeits all claims and liens for its garaging, parking or storing and is guilty of a misdemeanor punishable by a fine or not more than Twenty-five Dollars (\$25.00) for each day his failure to report continues.

~~(d)~~ D. The Department shall maintain and appropriately index cumulative public records of stolen, converted, recovered and unclaimed vehicles reported to it pursuant to this section. The Department may make and distribute weekly lists of such vehicles so

reported to it to peace officers upon request without fee and to others for the fee, if any, the Department prescribes.

~~(e)~~ E. Any peace officer who has reason to believe or upon receiving information that a motor vehicle has been stolen shall have and is hereby vested with authority to confiscate and hold such vehicle until satisfactory proof of ownership is established.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 11-801, is amended to read as follows:

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

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

1. Seventy-five (75) miles per hour in locations comprising:
 - a. the turnpike system, and
 - b. rural segments of the interstate highway system, as may be designated by the Transportation Commission. Provided, however, the Commission shall determine prior to the designation of such segments that the public safety will not be jeopardized;
2. Seventy (70) miles per hour in locations which are:
 - a. four-lane divided highways including, but not limited to, the interstate highway system, and
 - b. super two-lane highways. As used in this section, a super two-lane highway shall mean any two-lane highway

with designated passing lanes, and consisting of paved shoulders not less than eight (8) feet in width;

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

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

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

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

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

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

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

C. The Commission is hereby authorized to prescribe maximum and minimum speeds for all vehicles and any combinations of vehicles using controlled-access highways. Such regulations shall become effective after signs have been posted on these highways giving notice thereof. Such regulations may apply to an entirely controlled-access highway or to selected sections thereof as may be designated by the Commission. It shall be a violation of this section to drive any vehicle at a faster rate of speed than such prescribed maximum or at a slower rate of speed than such prescribed minimum. However, all vehicles shall at all times conform to the limits set forth in subsection A of this section.

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

D. The driver of every vehicle shall, consistent with the requirements of subsection A of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when driving upon any narrow or winding roadway, and when special hazard exists with

respect to pedestrians or other traffic, or by reason of weather or highway conditions.

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

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

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

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

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

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

1. One to ten miles per hour over the limit..... \$10.00
2. Eleven to fifteen miles per hour over the limit..... \$20.00
3. Sixteen to twenty miles per hour over the limit..... \$35.00
4. Twenty-one to twenty-five miles per hour over the limit..... \$75.00
5. Twenty-six to thirty miles per hour over the limit..... \$135.00
6. Thirty-one to thirty-five miles per hour over the limit..... \$155.00
7. Thirty-six miles per hour or more over the limit..... \$205.00

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

SECTION 5. AMENDATORY 47 O.S. 2001, Section 11-1010, is amended to read as follows:

Section 11-1010. A. The Department of Transportation in coordination with the Department of Public Safety shall have the authority to erect and maintain signs reserving, restricting or regulating the placing, stopping, standing or parking of vehicles within the boundaries of the following:

1. State Capitol Park;
- ~~2. Cowboy Hall of Fame Park;~~ and
- ~~3.~~ 2. State Capitol Complex in Tulsa.

B. The Department of Public Safety may prepare and issue window stickers or other means of identification except as provided in Section ~~3~~ 15.3 of ~~this act~~ Title 73 of the Oklahoma Statutes as the Commissioner of Public Safety shall deem necessary for the enforcement of ~~this act~~ Sections 11-1009 and 11-1010 of this title and Section 15.3 of Title 73 of the Oklahoma Statutes.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 14-103, as amended by Section 1, Chapter 286, O.S.L. 2002 (47 O.S. Supp. 2002, Section 14-103), is amended to read as follows:

Section 14-103. Except as otherwise provided for by this chapter:

A. No vehicle, with or without load, shall have a total outside width in excess of one hundred two (102) inches excluding:

1. Tire bulge;
2. Approved safety devices;

3. A retracted awning with a width of eight (8) inches or less or other appurtenance of four (4) inches or less which is attached to the side of a recreational vehicle, as defined in Section 1102 of this title; and

4. Pins used as a safety precaution or as a load-assisting device if the pins do not extend the overall width of the vehicle beyond nine (9) feet. The State of Oklahoma hereby declares it has determined, in accordance with 23 C.F.R. Section 658.15, that such pins are necessary for the safe and efficient operation of motor vehicles.

The provisions of this subsection shall not apply to any person engaged in the hauling of round baled hay with a total outside width of eleven (11) feet or less when the hay is owned by such person and is being hauled for any purpose other than resale. The provisions of this subsection shall also not apply to any county official or employee engaged in the hauling or pulling of a trailer or equipment owned by the county on the county roads of such county.

B. No vehicle, with or without load, shall exceed a height of thirteen and one-half (13 1/2) feet.

C. 1. No single truck, with or without load, shall have an overall length, inclusive of front and rear bumpers, in excess of forty-five (45) feet.

2. No single bus, with or without load, shall have an overall length, inclusive of front and rear bumpers, in excess of forty-five (45) feet.

3. a. On the National Network of Highways which includes the National System of Interstate and Defense Highways and four-lane divided Federal Aid Primary System Highways, no semitrailer operating in a truck tractor/semitrailer combination shall have a length greater than fifty-three (53) feet, except as provided in subsection ~~(e)~~ C of Section 14-118 of this title which shall apply to semitrailers exceeding fifty-three (53) feet but not exceeding fifty-nine (59) feet six (6) inches. On the National System of Interstate and Defense Highways and four-lane divided Federal Aid Primary System Highways, no semitrailer or trailer operating in a truck-tractor/semitrailer and trailer combination shall have a length greater than fifty-three (53) feet.

b. On roads and highways not a part of the National System of Interstate and Defense Highways or four-lane divided Federal Aid Primary System Highways, no semitrailer operating in a truck-tractor/semitrailer combination shall have a length greater than fifty-three (53) feet and no semitrailer or trailer operating in a truck-tractor/semitrailer and trailer combination shall have a length greater than twenty-nine (29) feet. Except as provided for in subsection

~~(d)~~ D of Section 14-118 of this title, no other combination of vehicles shall have an overall length, inclusive of front and rear bumpers, in excess of seventy (70) feet on all roads and highways. For the purposes of this paragraph, oil field rig-up trucks shall be considered to be truck-tractors, when towing a trailer or semitrailer.

4. No combination of vehicles shall consist of more than two units, except:

- a. one truck and semitrailer or truck-tractor/semitrailer combination may tow one complete trailer or semitrailer~~+~~, or
- b. vans, suburbans, blazers or other similar types of vehicles and self-propelled recreational vehicles with a three-quarter (3/4) ton or more rated capacity, may tow a semitrailer and one complete trailer or semitrailer for recreational purposes only, provided the overall length, inclusive of the front and rear bumpers, does not exceed sixty-five (65) feet.

5. Poles and gas lines used to maintain public utility services, not to include new construction, may be moved during daylight hours, and during nighttime hours only in an emergency, subject to traffic and road restrictions promulgated by the Commissioner of Public Safety, when the overall length does not exceed eighty (80) feet. When this length is exceeded, these loads are subject to the requirements of Section 14-118 of this title.

6. For the purposes of paragraphs 1, 3, and 4 of this subsection, the length of unitized equipment, which is defined to be equipment so constructed and attached to a rubber-tired vehicle that the vehicle and load become a unit and are for all practical purposes inseparable, shall be the length of the vehicle itself, and shall not include any protrusion of the equipment load so

constructed or attached. Said equipment shall not protrude for a distance greater than two-thirds (2/3) of the wheel base of said vehicle, shall not impair the driver's vision, and if less than seven (7) feet above the roadway, shall be safely marked, flagged or illuminated. Any such protruding structure shall be securely held in place to prevent dropping or swaying. Unitized equipment shall carry such safety equipment as shall be determined to be necessary for the safety, health, and welfare of the driving public by the Commissioner of Public Safety.

7. For the purposes of paragraphs 1, 3, and 4 of this subsection, a truck-tractor, when being towed by another vehicle with the wheels of its steering axle raised off the roadway, shall be considered to be a semitrailer as defined in Section 1-162 of this title.

8. The provisions of paragraphs 1 and 3 of this subsection shall not apply to any contractor or subcontractor, or agents or employees of any contractor or subcontractor, while engaged in transporting material to the site of a project being constructed by, for, or on behalf of this state or any city, town, county, or subdivision of this state.

9. Special mobilized machinery, as defined in Section 1102 of this title, which exceeds the size provisions of this section shall only use the highways of the State of Oklahoma by special permit issued by the Commissioner of Public Safety or an authorized representative of the Commissioner. Such special permit shall be:

- a. a single-trip permit issued under the provisions of Section 14-116 of this title, or
- b. a special annual oversize permit issued for one (1) calendar year period upon payment of a fee of Ten Dollars (\$10.00) plus any amount as provided by subsection H of Section 14-118 of this title.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 40-102, as amended by Section 1, Chapter 444, O.S.L. 2002 (47 O.S. Supp. 2002, 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, 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 8. AMENDATORY 47 O.S. 2001, Section 951, as amended by Section 1, Chapter 66, O.S.L. 2002 (47 O.S. Supp. 2002, 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, ~~or~~
- 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 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 9. AMENDATORY 47 O.S. 2001, Section 964, is amended to read as follows:

Section 964. Whenever a vehicle that is subject to registration in this state has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for a period of ~~more than~~ thirty (30) days, the owner of the garage, trailer park or lot shall, within five (5) days after the expiration of that period, report the make, motor and serial number of the vehicle to the Department of Public Safety. Provided, these provisions shall not apply where arrangements have been made for continuous storage or parking by the owner of the motor vehicle so parked or stored, and where the owner of said motor vehicle so parked or stored is personally known to the owner or operator of the garage, trailer park, storage or parking lot. Any person who fails to ~~submit the report a vehicle as~~ required under this ~~act at the end of thirty (30) days~~ section shall forfeit all claims for storage of the vehicle, and shall be subject to a fine not to exceed Twenty-five Dollars (\$25.00), and each day's failure to make a report as required by this section shall constitute a separate offense.

SECTION 10. AMENDATORY 73 O.S. 2001, Section 96, is amended to read as follows:

Section 96. The Director of the Department of Central Services is hereby authorized to regulate parking of vehicles on the streets in the vicinity of the State Capitol, the state office building, the State Historical Building, the State Armory, and other public buildings on the State Capitol grounds. Copies of such regulations, including amendments thereto, shall be filed in the Office of the Secretary of State and in the office of the city clerk of the City of Oklahoma City, and copies thereof shall be transmitted to each officer, board or commission having offices in said buildings. A reasonable amount of parking space shall be reserved on the streets immediately adjacent to each of said buildings for citizens, not

officers or employees of the state, having business to transact in such buildings. Parking space on the streets and on the public grounds may also be reserved for officers and employees. Such regulations may provide for diagonal or parallel parking of vehicles, the time limit for parking in spaces reserved, when such regulations shall be applicable, the placing of appropriate signs and other markings as to the availability of parking space, the issuance of appropriate stickers identifying vehicles, reservation of space for bus stops, and such other reasonable regulations as are deemed necessary to an orderly system to prevent congestion of traffic and the abuse of parking privileges on said streets. The Attorney General shall assist the Director of the Department of Central Services in the preparation of said regulations. Such regulations shall be enforced by the Highway Patrol Division of the Department of Public Safety and by the police of the City of Oklahoma City, ~~the State Highway Patrol,~~ or other peace officers. The authority of the City of Oklahoma City to regulate parking on the streets in the vicinity of the above referred to buildings is hereby withdrawn, and the Director of the Department of Central Services and the city manager of the City of Oklahoma City shall cooperate to the extent necessary in specifically defining the boundary or territorial limits of the respective jurisdictions in respect to the subject matter of this section and Section 97 of this title.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 1, Chapter 435, O.S.L. 2002 (74 O.S. Supp. 2002, Section 840-5.5), 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. Law Enforcement Programs Administrator, Class Code G40B,
- l. Civil Rights Administrator,
- m. Budget Analyst,
- n. Comptroller,
- o. Law Enforcement Highway Patrol Administrator, and
- p. 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 subparagraph d, e, f or o of this paragraph shall have a right of return to the classified commissioned position of Caption 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, 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, 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 Oklahoma 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, and
- j. one specialized HiTech/Food 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. Agricultural Marketing Coordinator III,

- 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. Agriculture Field Inspectors,
- u. Rural Fire Coordinator,
- v. Poultry Coordinator, and
- w. Food Safety Division Director;

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; and

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

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, and psychologists;
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.

SECTION 12. AMENDATORY 74 O.S. 2001, Section 1811.4C, is amended to read as follows:

Section 1811.4C The provisions of Title 47 of the Oklahoma Statutes shall be applicable to all streets and highways within "State Capitol Park", ~~the "Cowboy Hall of Fame Park"~~ and the "State Capitol Complex" in Tulsa. The Department of Public Safety ~~on and after July 26, 1981,~~ shall be the primary law enforcement agency within the "State Capitol Park", ~~the "Cowboy Hall of Fame Park"~~ and the "State Capitol Complex" in Tulsa upon its establishment, and shall enforce and supervise the enforcement of all parking, traffic and criminal laws therein. This section shall not be construed to divest the Cities of Oklahoma City or Tulsa of jurisdiction relating to the enforcement of any law or ordinance within said parks except the enforcement of laws regarding vehicle parking which shall be vested exclusively in the Department of Public Safety.

SECTION 13. AMENDATORY 75 O.S. 2001, Section 250.4, as amended by Section 12, Chapter 402, O.S.L. 2002 (75 O.S. Supp. 2002, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act.

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and E of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority and the Board of Trustees of the Oklahoma College Savings Plan shall be exempt from Article I of the Administrative Procedures Act.

5. The ~~Oklahoma~~ Transportation Commission and the ~~Oklahoma~~ Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

8. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 303.2, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety

and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations, or pursuant to Chapter 6 of Title 47 of the Oklahoma Statutes, to maintain a current incorporation of federal commercial driver license regulations, for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.

- b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference.
- c. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of this title.
- d. For any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

9. The Council on Judicial Complaints shall be exempt from Section 306 of Article I of the Administrative Procedures Act, with respect to review of the validity or applicability of a rule by an action for declaratory judgment, or any other relief based upon the validity or applicability of a rule, in the district court or by an appellate court. A party aggrieved by the validity or applicability of a rule made by the Council on Judicial Complaints may petition the Court on the Judiciary to review the rules and issue opinions based upon them.

10. The ~~Oklahoma~~ Department of Corrections, State Board of Corrections, county sheriffs and managers of city jails shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing internal management procedures for the management of the state prisons, county jails and city jails and for the management, supervision and control of all incarcerated prisoners, and
- b. prescribing internal management procedures for the management of the probation and parole unit of the Department of Corrections and for the supervision of probationers and parolees.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The ~~Oklahoma~~ Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The Northeast Oklahoma Public Facilities Authority;
9. The Council on Judicial Complaints;
10. The Board of Trustees of the Oklahoma College Savings Plan;
11. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;

12. The Board of Regents or employees of any university, college, or other institution of higher learning, except with respect to expulsion of any student for disciplinary reasons; provided, that upon any alleged infraction by a student of rules of such institutions, with a lesser penalty than expulsion, such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, and the following grounds of misconduct, if properly alleged in disciplinary proceedings against a student, shall be cause to be barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:

- a. participation in a riot as defined by the penal code,
- b. possession or sale of any drugs or narcotics prohibited by the penal code, Section 1 et seq. of Title 21 of the Oklahoma Statutes, or
- c. willful destruction of or willful damage to state property;

13. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules, or
- f. any filing of false information;

14. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

15. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

16. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

17. The Oklahoma Military Department;

18. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

19. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; and

20. The position audit procedure, including the impartial review process, of the Office of Personnel Management pursuant to Section 840-4.3 of Title 74 of the Oklahoma Statutes. Provided, that any appeal from an impartial review determination to a court of competent jurisdiction shall be confined to the record in accordance with the provisions of Article II of the Administrative Procedures Act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 507 of Title 75, unless there is created a duplication in numbering, reads as follows:

A. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Sections 501 through 506 of Title 75 of the Oklahoma Statutes.

B. 1. The Commissioner of Public Safety shall be exempt from Sections 501 through 506 of Title 75 of the Oklahoma Statutes insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier

safety and hazardous material regulations, or pursuant to Chapter 6 of Title 47 of the Oklahoma Statutes, to maintain a current incorporation of federal commercial driver license regulations, for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.

2. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference.

3. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of Title 75 of the Oklahoma Statutes.

4. For any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Sections 501 through 506 of Title 75 of the Oklahoma Statutes.

SECTION 15. REPEALER 47 O.S. 2001, Sections 2-132, 7-319, 7-327, 7-328, 7-329 and 7-401, are hereby repealed.

SECTION 16. RECODIFICATION Section 4, Chapter 58, O.S.L. 2002 (47 O.S. Supp. 2002, Section 19-211), shall be recodified as Section 11-805.3 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 17. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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