

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1313

By: Paulk, Lamons and Nance of
the House

and

Wilkerson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to homeland security; amending 21 O.S. 2001, Section 1767.1, which relates to bombs and explosives; modifying punishable acts; amending 21 O.S. 2001, Section 1767.3, which relates to definitions of explosives; modifying definitions; establishing punishment for possession of explosives; creating Bomb Squad; amending 63 O.S. 2001, Section 122.2, which relates to jurisdictional areas of state agencies; modifying jurisdiction of certain agencies; amending 63 O.S. 2001, Section 123.8, which relates to application of Oklahoma Explosives and Blasting Regulation Act; modifying qualification of bomb squad; amending 70 O.S. 2001, Section 3311, as amended by Section 1, Chapter 62, O.S.L. 2002 (70 O.S. Supp. 2002, Section 3311), which relates to Council on Law Enforcement Education and Training; establishing criteria for canine units; establishing Drug Dog Advisory Council; establishing minimum standards; amending 74 O.S. 2001, Sections 324.7 and 324.7a, which relate to rules and regulations for liquefied petroleum gas and flammable liquids; modifying definitions; modifying scope; 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 21 O.S. 2001, Section 1767.1, is amended to read as follows:

Section 1767.1 A. Any person who shall willfully ~~and~~ or maliciously commit any of the following acts shall be deemed guilty of a felony:

1. ~~Any person who places~~ Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle,

vessel, railroad, railway car, or locomotive or structure, ~~any~~
~~gunpowder, dynamite, bomb, any explosive substance, or incendiary~~
~~device,~~ with unlawful intent to destroy, throw down, or injure, in
whole or in part, such property ~~of another,~~ or ~~conspires, aids,~~
~~counsels or procures~~ conspire, aid, counsel or procure the
destruction of any building ~~or structure,~~ public or private, or any
car, truck, aircraft, motor or other vehicle, vessel, railroad,
railway car, or locomotive or structure; or

2. ~~Any person who places~~ Place in, upon, under, against or near
to any building, car, truck, aircraft, motor or other vehicle,
vessel, railroad, railway car, or locomotive or structure, ~~any~~
~~gunpowder, dynamite, bomb, or any explosive substance,~~ with intent
to destroy, throw down, or injure ~~the~~ in whole or ~~any~~ in part
~~thereof,~~ under circumstances that, if such intent were accomplished,
human life or safety would be endangered thereby; or

3. ~~Every person who maliciously, by~~ By the explosion of
~~gunpowder, dynamite or any explosive substance, destroys, throws~~
~~down, or injures~~ destroy, throw down, or injure any property of
another person, or ~~by which explosion an~~ cause injury ~~is caused to~~
~~the person of another person;~~ or

4. ~~Any person or group of persons who shall willfully~~
~~manufacture~~ Manufacture, sell, transport, or possess ~~a bomb or~~
~~simulated bomb or any explosive including an incendiary device or~~
the component parts of an explosive ~~or incendiary device~~ with
knowledge or intent that it or they will be used to unlawfully kill,
injure or intimidate any person, or unlawfully damage any real or
personal property; or

5. ~~Any person who shall place~~ Place in, upon, under, against or
near to any building, car, truck, aircraft, motor or other vehicle,
vessel, railroad, railway car, or locomotive or structure, any foul,
poisonous, offensive or injurious substance or compound or ~~simulated~~
~~bomb~~ explosive, with intent to wrongfully injure, molest or coerce

another person or to injure or damage the property of another person; or

6. ~~Any person or group of persons who maliciously injures, damages or attempts~~ Injure, damage or attempt to damage by an explosive, ~~including an incendiary device,~~ any person, persons, or property, whether real or personal; or

7. ~~Any person who uses~~ Use the telephone or other ~~instrument communication device~~ to willfully make any threat or ~~maliciously~~ convey information known to be false, concerning an attempt or alleged attempt to kill, injure or intimidate any person or unlawfully damage any real or personal property by means of an explosive ~~or simulated bomb, including an incendiary device;~~ or

8. ~~Any person who manufactures, possesses, sells or delivers~~ Manufacture, sell, deliver, mail or send an explosive ~~or simulated bomb or mails or sends an explosive or simulated bomb~~ to another person; or

9. ~~Any person who, while~~ While committing or attempting to commit any felony, ~~possesses, displays or threatens~~ possess, display, or threaten to use any explosive ~~or simulated bomb.~~

B. Nothing contained herein shall be construed to apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving noninjurious firecrackers or devices commonly called "stink bombs".

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1767.3, is amended to read as follows:

Section 1767.3 As used in Section 1767.1 of ~~Title 21 of the Oklahoma Statutes~~ this title:

1. "Explosive" or "explosives" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion or which, although not its primary or common purpose, has been modified, manipulated, altered, enhanced, or otherwise caused to function by explosion; ~~(i.e., with substantial~~

instantaneous release of gas ~~and/or~~, heat, debris, or concussive pressure or force), unless such compound, mixture or device is otherwise specifically classified by the United States Department of Transportation. The term "explosive" or "explosives" shall include but not be limited to gunpowder, dynamite, any bomb, any simulated device, all materials as defined in paragraphs 1 and 2 of Section 121.1 of Title 63 of the Oklahoma Statutes, and all material which is classified as explosives by the United States Department of Transportation~~;~~;

2. "Person" means any individual or individuals, firm, copartnership, corporation, company, association, joint stock association, and includes any trustee, receiver, assignee or personal representative thereof~~;~~;

3. "Incendiary device" means any chemical compound, mixture or device, the primary purpose of which is to ignite on impact or as a result of chemical reaction such as a "Molotov cocktail" or "firebomb" which is ignited on impact, causing a mechanical reaction of the container's breaking and permitting the inflammable matter to spread or splatter and is ignited from the burning wick or hypergolic reaction of chemicals~~;~~;

4. "Component parts" means separate parts which if assembled would form an explosive device. Component parts of an "incendiary device" shall consist of an inflammable material, a breakable container and a source of ignition~~;~~ and

5. "Simulated bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, ~~a destructive~~ an incendiary device, or explosive, or explosives, as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a ~~destructive~~ device or explosive.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1767.5 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Any person who shall possess, manufacture, store, or use any explosive, as defined in Section 121.1 of Title 63 of the Oklahoma Statutes, without having in the possession of the person a permit, or a copy thereof, issued pursuant to the Oklahoma Explosives and Blasting Regulation Act, shall be deemed guilty of a misdemeanor.

B. This section shall not be construed to:

1. Apply to any person or activity expressly exempted from the Oklahoma Explosives and Blasting Regulation Act;

2. Apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving noninjurious firecrackers or devices commonly called "stink bombs"; or

3. Apply to explosives while in transit in, into, or through this state, if the operator of the vehicle transporting the explosives carries in the vehicle the shipping papers required by 49 C.F.R., Section 172.200 et seq., and displays such papers to any law enforcement officer upon request.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-105.4B of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the Highway Patrol Division the Bomb Squad Section which shall consist of such employees the Commissioner of Public Safety deems necessary to carry out the provisions of Section 122.2 of Title 63 of the Oklahoma Statutes.

B. The Commissioner is authorized to purchase and maintain necessary equipment and supplies and shall provide proper training necessary for the enforcement of the provisions of this section.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 122.2, is amended to read as follows:

Section 122.2 The provisions of this section specify the jurisdictional areas of state agencies relating to the regulation of blasting and explosives. Agencies regulating explosives and blasting shall cooperate and coordinate with each other in the investigation of explosives when appropriate. The State Fire Marshal may enter into interagency agreements with the Department of Public Safety and the Department of Mines for the purpose of such investigations. The jurisdictional areas of responsibility specified in this section shall be in addition to those otherwise provided by law and assigned to the specific state agency as follows:

1. Department of Mines. The Department of Mines shall have the following jurisdictional areas relating to the regulation of blasting and explosives:

- a. the use of explosives and blasting activities for surface and nonsurface mining operations pursuant to Title 45 of the Oklahoma Statutes,
- b. except as otherwise provided by this part, the use of explosives and blasting activities for nonmining activities, and
- c. except as otherwise provided by this part, the regulation of the use of explosives or of blasting activity not subject to the specific statutory authority of another state agency;

2. State Fire Marshal. The State Fire Marshal shall have regulatory jurisdictional responsibility relating to explosives as follows:

- a. the regulation of the manufacture, sale, transportation for hire or storage of explosives or blasting agents for resale pursuant to Division 2 of the Oklahoma Explosives and Blasting Regulation Act, and

- b. the examination of buildings and premises and reporting and orders authorized pursuant to Section 317 of Title 74 of the Oklahoma Statutes;

3. The Department of Public Safety. The Department of Public Safety shall have the regulatory jurisdictional responsibility relating to explosives as follows:

- a. the transportation of explosives or blasting agents classified as hazardous materials pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, and
- b. primary statewide authority to investigate any explosive, explosive device, and materials which could be used to construct explosive devices and the intentional:
 - (1) placement of any such explosive, device, or material,
 - (2) use of any such explosive, device or material, or
 - (3) possession of any such explosive, device or material; and

4. Department of Environmental Quality. The Department of Environmental Quality shall have jurisdictional responsibility relating to the regulation and disposal of explosives or blasting agents classified as solid or hazardous waste pursuant to the Oklahoma Environmental Quality Code.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 123.8, is amended to read as follows:

Section 123.8 A. 1. The provisions of this part shall not apply to:

- a. persons engaged in shooting wells or seismographic operations for the purpose of oil or gas production,
- b. mining operations regulated by Title 45 of the Oklahoma Statutes, and

- c. persons using explosives or blasting agents for noncommercial use on their own land, owned in fee or by contract, for the removal of trees, rocks and dams or for other normal agricultural purposes.

2. Any person exempted from the provisions of the Oklahoma Explosives and Blasting Regulation Act pursuant to this subsection shall be liable for all damages caused by the use of explosives, or blasting agents and blasting operations, which damages shall be recoverable in any court of competent jurisdiction.

B. In addition, the provisions of this part shall not apply to:

1. Any municipalities or counties in this state using any blasting agents, explosives or conducting, supervising or controlling a blasting operation in this state. Any such municipality or county shall comply with rules promulgated by the Oklahoma Mining Commission;

2. The Department of Transportation in the conducting, supervision or controlling of any blasting operation in this state, provided the Department shall comply with rules promulgated by the Oklahoma Mining Commission; and

3. Duly qualified and certified bomb technicians of a federally accredited bomb squad of municipal, county, state, and federal law enforcement agencies for the transportation, storage or disposal of any explosive chemical, compound or device, when such technician is performing responsibilities for the preservation of public peace, safety, or criminal investigation.

SECTION 7. AMENDATORY 70 O.S. 2001, Section 3311, as amended by Section 1, Chapter 62, O.S.L. 2002 (70 O.S. Supp. 2002, Section 3311), is amended to read as follows:

Section 3311. A. There is hereby re-created a Council on Law Enforcement Education and Training which shall be, and is hereby declared to be, a governmental agency of the State of Oklahoma, body politic and corporate, with powers of government and with the

authority to exercise the rights, privileges and functions specified by this act and as hereinafter specified. The Council shall be composed of seven (7) police or peace officers, one selected by each of the following: the Court of Criminal Appeals, the Commissioner of Public Safety, the Board of Directors of the Oklahoma Sheriffs and Peace Officers Association, the Oklahoma Association of Police Chiefs, the Board of Directors of the Oklahoma Sheriffs' Association, the Board of Directors of the Fraternal Order of Police and the Governor. The Director selected by the Council shall be an ex officio member of the Council and shall act as Secretary. The Council on Law Enforcement Education and Training shall select a chair and vice-chair from among its members. Members of the Council on Law Enforcement Education and Training shall not receive a salary for duties performed as members of the Council, but shall be reimbursed for their actual and necessary expenses incurred in the performance of Council duties pursuant to the provisions of the State Travel Reimbursement Act.

B. The Council on Law Enforcement Education and Training is hereby authorized and directed to:

1. Appoint a larger Advisory Council to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to upgrading Oklahoma law enforcement to professional status;

2. Promulgate rules with respect to such matters as certification, revocation, suspension, withdrawal and reinstatement of certification, minimum courses of study, testing and test scores, attendance requirements, equipment and facilities, minimum qualifications for instructors, minimum standards for basic and advanced in-service courses, and seminars for Oklahoma police and peace officers;

3. Authorize research, basic and advanced courses, and seminars to assist in program planning directly and through subcommittees;

4. Authorize additional staff and services necessary for program expansion;

5. Recommend legislation necessary to upgrade Oklahoma law enforcement to professional status;

6. Establish policies and regulations concerning the number, geographic and police unit distribution, and admission requirements of those receiving tuition or scholarship aid available through the Council. Such waiver of costs shall be limited to duly appointed members of legally constituted local, county, and state law enforcement agencies on the basis of educational and financial need;

7. Appoint a Director and an Assistant Director to direct the staff, inform the Council of compliance with the provisions of this section and perform such other duties imposed on the Council by law;

8. Enter into contracts and agreements for the payment of classroom space, food, and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction approved or conducted by the Council. Such expenses may be paid directly to the contracting agency or business establishment. The food and lodging expenses for each law enforcement officer shall not exceed the authorized rates as provided for in the State Travel Reimbursement Act;

9. Certify canine teams, consisting of a dog and a handler working together as a team, trained to detect:

a. controlled dangerous substances, or

b. explosives, explosive materials, explosive devices, or materials which could be used to construct an explosive device;

provided, the dog of a certified canine team shall not be certified at any time under both subparagraphs a and b of this paragraph, and any dog of a certified canine team who has been previously certified under either subparagraph a or b of this paragraph shall not be

eligible at any time to be certified under the other subparagraph of this paragraph;

10. Enter into a lease, loan or other agreement with the Oklahoma Development Finance Authority or a local public trust for the purpose of facilitating the financing of a new facility for its operations and use and pledge, to the extent authorized by law, all or a portion of its receipts of the assessment penalty herein referenced for the payment of its obligations under such lease, loan or other agreement. It is the intent of the Legislature to increase the assessment penalty to such a level or appropriate sufficient monies to the Council on Law Enforcement Education and Training to make payments on the lease, loan or other agreement for the purpose of retiring the bonds to be issued by the Oklahoma Development Finance Authority or local public trust. Such lease, loan or other agreement and the bonds issued to finance such facilities shall not constitute an indebtedness of the State of Oklahoma or be backed by the full faith and credit of the State of Oklahoma, and the lease, loan or other agreement and the bonds shall contain a statement to such effect;

11. Accept gifts, bequests, devises, contributions and grants, public or private, of real or personal property; and

12. Appoint an advisory committee composed of representatives from security guard and private investigative agencies to advise the Council concerning necessary research, minimum standards for licensure, education, and other matters related to licensure of security guards, security guard agencies, private investigators, and private investigative agencies.

C. Failure of the Legislature to appropriate necessary funds to provide for expenses and operations of the Council on Law Enforcement Education and Training shall not invalidate other provisions of this section relating to the creation and duties of the Council.

D. 1. No person shall be eligible to complete a basic police course approved by the Council until the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported to the submitting agency that such person has no felony record, and the employing agency has reported to the Council that such person has undergone psychological testing as provided for in paragraph 2 of this subsection, and the applicant has certified the completion of a high school diploma or a GED equivalency certificate and that the applicant is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude or is not currently subject to an order of the Council revoking, suspending, or accepting a voluntary surrender of peace officer certification.

2. No person shall be certified as a police or peace officer in this state unless the employing agency has reported to the Council that:

- a. the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported that such person has no record of a conviction of a felony or crime involving moral turpitude,
- b. such person has undergone psychological evaluation such as the Minnesota Multiphasic Personality Inventory, the California Personality Inventory, or other psychological instrument approved by the Council on Law Enforcement Education and Training. The psychological instrument utilized shall be evaluated by a psychologist licensed by the State of Oklahoma, and the employing agency shall certify to the Council that the evaluation was conducted in accordance with this provision and that the employee/applicant is suitable to serve as a peace officer in the State of Oklahoma. Nothing herein shall preclude a psychologist licensed in the state from employing

additional psychological techniques to assist the employing agency's determination of the employee/applicant's suitability to serve as a peace officer in the State of Oklahoma. Any person found not to be suitable for employment or certification by the Council shall not be employed, retained in employment as a peace officer, or certified by the Council for at least one (1) year, at which time the employee/applicant may be re-evaluated by a psychologist licensed by the State of Oklahoma. This section shall also be applicable to all reserve peace officers in the State of Oklahoma,

- c. such person possesses a high school diploma or a GED equivalency certificate, provided this requirement shall not affect those persons who are already employed as a police or peace officer prior to November 1, 1985,
- d. such person is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude,
- e. such person has attained twenty-one (21) years of age prior to certification as a peace officer, and
- f. such person has provided proof of United States citizenship or resident alien status, pursuant to an employment eligibility verification form from the United States Immigration and Naturalization Service,

and the Council has determined that such person has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies and not less than three hundred (300) hours for full-time salaried police or peace officers from the Council or curriculum or course of study approved by the Council, provided the

Council may increase the number of hours for the completion of a basic police course by requiring independent study. Beginning January 1, 2003, the basic police course for full-time-salaried police or peace officers shall be increased to not less than three hundred two (302) hours. Said training shall include training in crime and drug prevention, crisis intervention, and youth and family intervention techniques and recognizing, investigating and preventing abuse and exploitation of elderly persons.

3. Every person who has not been certified as a police or peace officer and is duly appointed or elected as a police or peace officer shall hold such position on a temporary basis only, and shall, within one (1) year from the date of appointment or taking office, qualify as required in this subsection or forfeit such position. In computing the one (1) year, all service shall be cumulative from date of first appointment or taking office as a police or peace officer with any department in this state. The Council may extend the time requirement specified in this paragraph for good cause as determined by the Council. An elected police or peace officer shall be eligible to enroll in a basic police course in accordance with this subsection upon being elected. A duty is hereby imposed upon the employing agency to withhold payment of the compensation or wage of said unqualified officer. If the police or peace officer fails to forfeit the position or the employing agency fails to require the officer to forfeit the position, the district attorney shall file the proper action to cause the forfeiting of such position. The district court of the county where the officer is employed shall have jurisdiction to hear the case.

4. The Council may certify officers who have completed a course of study in another state deemed by the Council to meet standards for Oklahoma peace officers providing the officer's certification in the other state has not been revoked or voluntarily surrendered and is not currently under suspension.

5. For purposes of this section, a police or peace officer is defined as a full-time duly appointed or elected officer who is paid for working more than twenty-five (25) hours per week and whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, and enforce laws and ordinances of this state, or any political subdivision thereof; provided, elected sheriffs and their deputies and elected, appointed, or acting chiefs of police shall meet the requirements of this subsection within the first six (6) months after assuming the duties of the office to which they are elected or appointed or for which they are an acting chief; provided further, that this section shall not apply to persons designated by the Director of the Department of Corrections as peace officers pursuant to Section 510 of Title 57 of the Oklahoma Statutes.

E. No person shall be certified as a police or peace officer by the Council or be employed by the state, a county, a city, or any political subdivision thereof, who is currently subject to an order of the Council revoking, suspending, or accepting a voluntary surrender of peace officer certification or has been convicted of a felony or a crime involving moral turpitude unless a full pardon has been granted by the proper agency; however, any person who has been trained and certified by the Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of November 1, 1985, shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985.

F. Every person employed as a police or peace officer in this state shall be fingerprinted by the employing law enforcement agency. One set of said impressions shall be mailed to the Oklahoma State Bureau of Investigation and one set to the Federal Bureau of Investigation, Washington, D.C. within ten (10) days from the initial date of employment.

G. 1. The Council is hereby authorized to provide to any employing agency the following information regarding a person who is or has applied for employment as a police or peace officer of such employing agency:

- a. Oklahoma State Bureau of Investigation and Federal Bureau of Investigation reports,
- b. administration of the psychological tests provided for herein,
- c. performance in the course of study or other basis of certification,
- d. previous certifications issued, and
- e. any administrative or judicial determination denying certification.

2. An employing agency shall not be liable in any action arising out of the release of contents of personnel information relevant to the qualifications or ability of a person to perform the duties of a police or peace officer when such information is released pursuant to written authorization for release of information signed by such person and is provided to another employing agency which has employed or has received an application for employment from such person.

H. A law enforcement agency employing police or peace officers in this state shall report the hiring, resignation, or termination for any reason of a police or peace officer to the Council at a time established by the Council. Failure to comply with the provisions of this subsection may disqualify a law enforcement agency from participating in training programs sponsored by the Council.

I. As used in this section, "employing agency" means a political subdivision or law enforcement agency which either has employed or received an employment application from a person who, if employed, would be subject to this section.

J. 1. The Council may take disciplinary action against a police or peace officer to include a denial, suspension or revocation of peace officer certification on a showing of clear and convincing evidence for the following:

- a. the Council shall deny, revoke or accept voluntary surrender of peace officer certification for conviction of a felony or a crime of domestic violence,
- b. the Council shall deny, revoke or accept voluntary surrender of peace officer certification for conviction of a misdemeanor involving moral turpitude; provided, if the conviction is a single isolated incident that occurred more than five (5) years ago and the Council is satisfied that the person has been sufficiently rehabilitated, the Council may certify such person providing that all other statutory requirements have been met,
- c. the Council shall revoke or accept a voluntary surrender of peace officer certification upon a verdict of guilt or entry of a plea of guilty or nolo contendere for a deferred sentence for a felony offense, a crime of moral turpitude, or a crime of domestic violence,
- d. falsification or a willful misrepresentation of information in an employment application, or records of evidence, or in testimony under oath, or
- e. revocation or voluntary surrender of police or peace officer certification in another state.

2. Disciplinary proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant.

3. Upon the filing of the verified complaint, the Council's Executive Director shall conduct a preliminary investigation to determine whether:

- a. there is reason to believe the person has violated any provision of this subsection, or
- b. there is reason to believe the person has been convicted of or is currently participating in a deferred sentence for a felony, a crime involving moral turpitude or a domestic violence offense.

4. If the Executive Director does not find there is reason to believe the person has violated any of the provisions of this subsection, or the Executive Director is satisfied the person is sufficiently rehabilitated as provided in subparagraph b of paragraph 1 of this subsection, the person shall remain certified. If the Executive Director finds that there is reason to believe the person has violated the provisions of this subsection, the matter shall be referred for disciplinary proceedings. The disciplinary proceedings shall be in accordance with Articles I and II of the Administrative Procedures Act.

5. The Council shall revoke the certification of any person upon determining that such person has been convicted of a felony, crime involving moral turpitude or domestic violence; provided, that if the conviction has been reversed, vacated or otherwise invalidated by an appellate court, such conviction shall not be the basis for revocation of certification; provided further, that any person who has been trained and certified by the Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of November 1, 1985, shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985. The sole issue to be determined at the hearing shall be whether the person has been convicted of a felony or crime involving moral turpitude.

6. The Council shall revoke the certification of any person upon determining that such person has received a deferred sentence for a felony, a crime involving moral turpitude or a domestic violence offense.

7. For all other violations of this subsection, the hearing examiner shall take into consideration the severity of the violation, and any mitigating circumstances offered by the person subject to disciplinary action, and any other evidence relevant to the person's character to determine the appropriate disciplinary action.

8. a. A police or peace officer may voluntarily surrender and relinquish his peace officer certification to CLEET. Pursuant to such surrender or relinquishment, the person surrendering the certification shall be prohibited from applying to CLEET for reinstatement within five (5) years of the date of the surrender or relinquishment.
- b. No person who has had a police or peace officer certification from another state revoked or voluntarily surrendered shall be considered for certification by CLEET within five (5) years of the effective date of any such revocation or voluntary surrender of certification.
- c. Any person seeking reinstatement of police or peace officer certification which has been suspended, revoked, or voluntarily surrendered, may apply for reinstatement pursuant to promulgated CLEET rules governing reinstatement.

9. A duty is hereby imposed upon the district attorney who, on behalf of the State of Oklahoma, prosecutes a person holding police or peace officer certification for a felony or crime involving moral turpitude in which a plea of guilty, nolo contendere, or other

finding of guilt is entered by, against or on behalf of a certified police or peace officer to report such plea, agreement, or other finding of guilt to the Council on Law Enforcement Education and Training within ten (10) days of such plea agreement or the finding of guilt.

10. Any person or agency required or authorized to submit information pursuant to this section to the Council shall be immune from liability arising from the submission of the information as long as the information was submitted in good faith and without malice.

K. 1. Every canine team in the state trained to detect controlled dangerous substances shall be certified, by test, in the detection of such controlled dangerous substances and shall be recertified annually so long as the canine is used for such detection purposes. The certification test and annual recertification test provisions of this subsection shall not be applicable to canines that are owned by a law enforcement agency and that are certified and annually recertified in the detection of controlled dangerous substances by the United States Customs Service.

2. The Council shall appoint a Drug Dog Advisory Council to make recommendations concerning minimum standards, educational needs, and other matters imperative to the certification of canines and canine teams trained to detect controlled dangerous substances. The Council shall promulgate rules based upon the recommendations of the Advisory Council. Members of the Advisory Council shall include, but need not be limited to, a commissioned officer with practical knowledge of such canines and canine teams from each of the following:

- a. the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
- b. the Department of Public Safety,

- c. a police department,
- d. a sheriff's office, and
- e. a university or college campus police department.

3. The fee for the certification test shall be Two Hundred Dollars (\$200.00) and the annual recertification test fee shall be One Hundred Dollars (\$100.00) per canine team. A retest fee of Fifty Dollars (\$50.00) will be charged if the team fails the test. No such fee shall be charged to any local, state or federal government agency. The fees provided for in this paragraph shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

L. 1. Every canine team in the state trained to detect explosives, explosive materials, explosive devices, and materials which could be used to construct an explosive device shall be certified, by test, in the detection of such explosives and materials and shall be recertified annually so long as the canine is used for such detection purposes. The certification test and annual recertification test provisions of this subsection shall not be applicable to canines that are owned by a law enforcement agency if such canines are certified and annually recertified in the detection of explosives and materials by the United States Department of Defense.

2. The Council shall appoint a Bomb Dog Advisory Council to make recommendations concerning minimum standards, educational needs, and other matters imperative to the certification of canines and canine teams trained to detect explosives, explosive materials, explosive devices and materials which could be used to construct an explosive device. The Council shall promulgate rules based upon the recommendations of the Advisory Council. Members of the Advisory Council shall include, but need not be limited to, a commissioned officer with practical knowledge of such canines and canine teams from each of the following:

- a. the Department of Public Safety,
- b. a police department,
- c. a sheriff's office, and
- d. a university or college campus police department.

3. The fee for the certification test shall be Two Hundred Dollars (\$200.00) and the annual recertification test fee shall be One Hundred Dollars (\$100.00) per canine team. A retest fee of Fifty Dollars (\$50.00) will be charged if the team fails the test. No such fee shall be charged to any local, state or federal government agency. The fees provided for in this paragraph shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

M. All tribal police officers of any Indian tribe or nation which has entered into a cross-deputization agreement with the State of Oklahoma or any political subdivision of the State of Oklahoma pursuant to the provisions of Section 1221 of Title 74 of the Oklahoma Statutes shall be eligible to enroll in and receive the training provided for in this section under the same terms and conditions that such training is made available to members of the law enforcement agencies of the State of Oklahoma and its political subdivisions, except that a fee of Three Dollars and sixteen cents (\$3.16) per hour of training shall be charged for all training provided pursuant to this subsection. Such fees shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

~~M.~~ N. If an employing law enforcement agency in this state has paid the salary of a person while that person is completing in this state a basic police course approved by the Council and if within one (1) year after certification that person resigns and is hired by another law enforcement agency in this state, the second agency or the person receiving the training shall reimburse the original

employing agency for the salary paid to the person while completing the basic police course by the original employing agency.

SECTION 8. AMENDATORY 74 O.S. 2001, Section 324.7, is amended to read as follows:

Section 324.7 A. Except as otherwise specified by subsection B of this section, the State Fire Marshal Commission shall have the power and duty to prescribe, adopt, and promulgate, in the manner set forth in this act, such reasonable rules, regulations, or specifications consistent with nationally recognized codes, standards, or practices on matters relating to the safeguarding of life and property from the hazards of fire and explosion arising from storage, handling, ~~transportation~~, and use of flammable and combustible materials, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, as are deemed just and reasonable and in accordance with nationally recognized standards, and not inconsistent with this act, and to revoke, amend, or supersede the same. For the purpose of this act, standards published by the National Fire Protection Association shall be deemed as meeting the intent of this act. Exceptions to these standards shall be granted to detention and correction facilities in existence on November 1, 1985, when noncompliance would not result in a life-threatening condition to inmates incarcerated in such facilities. All such rules, regulations, and specifications or any revisions or amendments thereto shall not become effective until promulgated in accordance with the provisions of the Administrative Procedures Act.

B. 1. Liquefied petroleum gas defined by Section 420.1 of Title 52 of the Oklahoma Statutes shall be regulated by the Oklahoma Liquefied Petroleum Gas Board.

2. Flammable liquids stored in tanks at service stations shall be regulated by the Corporation Commission.

~~a.~~

C. For the purpose of this section:

~~(1) "flammable~~

1. "Flammable liquids" means all petroleum products used as motor fuel and all grades of gasoline, kerosene, diesel fuel and aviation fuel having a vapor pressure not exceeding forty (40) pounds per square inch absolute at one hundred (100) degrees Fahrenheit;

~~(2) "service~~

2. "Service station" means any facility including but not limited to businesses serving the public, marinas and airports where flammable liquids are stored in aboveground tanks and dispensed for retail sales into the fuel tanks of airplanes, vessels or motor vehicles of the public; and

~~(3) "aboveground~~

3. "Aboveground tank" means any stationary vessel at a service station and is located above the surface of the ground or on the ground which is designed to contain an accumulation of flammable liquids and which is constructed of nonearthen materials that provide structural support.

SECTION 9. AMENDATORY 74 O.S. 2001, Section 324.7a, is amended to read as follows:

Section 324.7a A. The Office of the State Fire Marshal in pursuance of its duties to protect the health, safety and welfare of the public and property from the hazards of fire and explosion arising from the storage, handling, ~~transportation,~~ and use of flammable and combustible materials shall assist and cooperate with the Commission in the performance of its duties under this act by making investigations, fire fighting, gathering evidence and filing reports or complaints with the Commission concerning flammable liquids stored in aboveground tanks. The Office of the State Fire Marshal shall report any violations of the Oklahoma Aboveground Tank Regulation Act or rules promulgated thereto to the Commission.

B. Upon the request of the Commission, the Office of the State Fire Marshal shall assist the Commission with the training of its enforcement employees or agents in the standards and practices on matters relating to the safeguarding of life and property from the hazards of fire and explosions arising from storage, handling, ~~transportation,~~ and use of flammable liquids located at service stations.

SECTION 10. This act shall become effective July 1, 2003.

SECTION 11. 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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