

3 **Senate Bill No. 1769**
4 **As Amended**

5 SENATE BILL NO. 1769 - By: CORN of the Senate and TERRILL of the
6 House.

7 [Department of Public Safety - police authority -
8 undocumented aliens - effective date]

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

10 SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-117, as
11 last amended by Section 8, Chapter 190, O.S.L. 2005 (47 O.S. Supp.
12 2005, Section 2-117), is amended to read as follows:

13 Section 2-117. A. The Commissioner of Public Safety and each
14 officer of the Department of Public Safety, as designated and
15 commissioned by the Commissioner, are hereby declared to be peace
16 officers of the State of Oklahoma and shall be so deemed and taken
17 in all courts having jurisdiction of offenses against the laws of
18 the state. Such officers shall have the powers and authority now
19 and hereafter vested by law in other peace officers, including the
20 right and power of search and seizure, except the serving or
21 execution of civil process, and the right and power to investigate
22 and prevent crime and to enforce the criminal laws of this state.

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

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

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

7 3. To arrest any person determined to be an undocumented alien
8 by reason of the inability or failure to produce proof of U.S.
9 citizenship or valid documents or a visa issued by the U.S.
10 Citizenship and Immigration Services. Whenever the Department has
11 undocumented alien arrestees in custody, it shall immediately notify
12 the U.S. Immigration and Customs Enforcement of such arrest and
13 shall detain the person until custody is assumed by the U.S.
14 Immigration and Customs Enforcement;

15 4. When the officer is in pursuit of a violator or suspected
16 violator and is unable to arrest such violator or suspected violator
17 within the limits of the jurisdiction of the Oklahoma Highway Patrol
18 Division, to continue in pursuit of such violator or suspected
19 violator into whatever part of the state may be reasonably necessary
20 to effect the apprehension and arrest of the same, and to arrest
21 such violator or suspected violator wherever the violator may be
22 overtaken;

1 ~~4.~~ 5. To assist in the location of stolen property, including
2 livestock and poultry or the carcasses thereof, and to make any
3 inspection necessary of any truck, trailer or contents thereof in
4 connection therewith;

5 ~~5.~~ 6. At all times to direct all traffic in conformance with
6 law and, in the event of a fire, or other emergency, or to expedite
7 traffic, or to insure safety, to direct traffic as conditions may
8 require, notwithstanding the provisions of law;

9 ~~6.~~ 7. To require satisfactory proof of ownership of the
10 contents of any motor vehicle, including livestock, poultry or the
11 carcasses thereof. In the event that the proof of ownership is not
12 satisfactory, it shall be the duty of the officer to take the motor
13 vehicle, driver, and the contents of the motor vehicle into custody
14 and deliver the same to the sheriff of the county wherein the cargo,
15 motor vehicle and driver are taken into custody;

16 ~~7.~~ 8. When on duty, upon reasonable belief that any vehicle is
17 being operated in violation of any provisions of this title, or any
18 other law regulating the operation of vehicles, to require the
19 driver thereof to stop and exhibit his or her driver license and the
20 certificate of registration issued for the vehicle, if required to
21 be carried in the vehicle pursuant to paragraph 3 of subsection A of
22 Section 1113 of this title, and submit to an inspection of such
23 vehicle, the license plates and certificate of registration thereon,

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

3 ~~8.~~ 9. To inspect any vehicle of a type required to be
4 registered hereunder in any public garage or repair shop or in any
5 place where such vehicles are held for sale or wrecking, for the
6 purpose of locating stolen vehicles and investigating the title and
7 registration thereof;

8 ~~9.~~ 10. To serve all warrants relating to the enforcement of the
9 laws regulating the operation of vehicles or the use of the highways
10 and bench warrants issued for nonpayment of fines and costs for
11 moving traffic violations;

12 ~~10.~~ 11. To investigate and report traffic collisions on all
13 interstate and defense highways and on all highways outside of
14 incorporated municipalities, and may investigate traffic collisions
15 within any incorporated municipality upon request of the local law
16 enforcement agency, and to secure testimony of witnesses or of
17 persons involved;

18 ~~11.~~ 12. To investigate reported thefts of motor vehicles,
19 trailers and semitrailers;

20 ~~12.~~ 13. To stop and inspect any motor vehicle or trailer for
21 such mechanical tests as may be prescribed by the Commissioner to
22 determine the roadworthiness of the vehicle. Any vehicle which may
23 be found to be unsafe for use on the highways may be ordered removed

1 from said highway until such alterations or repairs have been made
2 that will render said vehicle serviceable for use on the highway;

3 ~~13.~~ 14. To stop and inspect the contents of all motor vehicles
4 to ascertain whether or not the provisions of all general laws are
5 being observed;

6 ~~14.~~ 15. To enforce the laws of the state relating to the
7 registration and licensing of motor vehicles;

8 ~~15.~~ 16. To enforce the laws relating to the operation and use
9 of vehicles on the highway;

10 ~~16.~~ 17. To enforce and prevent, on the roads of the state
11 highway system, the violation of the laws relating to the size,
12 weight, and speed of commercial motor vehicles and all laws designed
13 for the protection of the highway pavements and structures on such
14 highways;

15 ~~17.~~ 18. To investigate and report to the Corporation Commission
16 and the Oklahoma Tax Commission violation of their rules and the
17 laws governing the transportation of persons and property by motor
18 transportation companies and all other motor carriers for hire;

19 ~~18.~~ 19. To investigate and report violations of all laws
20 relating to the collection of excise taxes on motor vehicle fuels;

21 ~~19.~~ 20. To regulate the movement of traffic on the roads of the
22 state highway system;

1 ~~20.~~ 21. Whenever possible, to determine persons causing or
2 responsible for the breaking, damaging, or destruction of any
3 improved surfaced roadway, structure, sign, marker, guardrail, or
4 any other appurtenance constructed or maintained by the Department
5 of Transportation, and to arrest persons responsible therefor and to
6 bring them before the proper officials for prosecution;

7 ~~21.~~ 22. To investigate incidents involving an employee of the
8 Department, when such incidents are related to the performance of
9 the duties of the employee; and

10 ~~22.~~ 23. To initiate or assist in manhunts and fugitive
11 apprehensions.

12 C. Whenever any person is arrested by a patrol officer for a
13 traffic violation the provisions of Sections 16-101 through 16-114
14 of this title shall apply.

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

20 2. The Oklahoma Highway Patrol Division shall have primary law
21 enforcement authority respecting traffic-related offenses upon the
22 National System of Interstate and Defense Highways, and may have
23 special law enforcement authority on those portions of the federal-

1 aid primary highways and the state highway system which are located
2 within the boundaries and on the outskirts of a municipality, and
3 designated by the Commissioner of Public Safety for such special law
4 enforcement authority. As used in this subsection "outskirts of a
5 municipality" means and shall be determined by presence of the
6 following factors:

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

13 3. The Commissioner may designate any portion of the National
14 System of Interstate and Defense Highways, and those portions of the
15 federal-aid primary highways and the state highway system which are
16 located within the boundaries of and on the outskirts of a
17 municipality for special traffic-related enforcement by the Oklahoma
18 Highway Patrol Division and issue a written notice to any other law
19 enforcement agency affected thereby. Upon receipt of such notice,
20 the affected law enforcement agency shall not regulate traffic nor
21 enforce traffic-related statutes or ordinances upon such designated
22 portion of the National System of Interstate and Defense Highways or
23 such designated portions of the federal-aid primary highways and the

1 state highway system without prior coordination and written approval
2 of the Commissioner.

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

10 a. within the boundaries of and on the outskirts of the
11 municipality, and

12 b. for the purpose of generating more than fifty percent
13 (50%) of the revenue needed for the operation of the
14 municipality.

15 5. Upon receipt of a request pursuant to paragraph 4 of this
16 subsection, the Commissioner shall investigate the traffic-related
17 enforcement practices of the municipal law enforcement agency and
18 the receipts and expenditures of the municipality. Both the law
19 enforcement agency and the municipality shall cooperate fully with
20 the Commissioner in such an investigation. Upon the completion of
21 the investigation, the Commissioner shall submit a report of the
22 results of the investigation to the Attorney General, who shall make
23 a determination within sixty (60) days of receipt of the report as

1 to whether the enforcement practices of the municipal law
2 enforcement agency are being conducted as provided in subparagraphs
3 a, b and c of paragraph 4 of this subsection. Upon a determination
4 that the enforcement practices are not being conducted in such a
5 manner, the Attorney General shall notify the Commissioner in
6 writing, and the Commissioner shall take no action to make a
7 designation as provided in paragraph 3 of this subsection. Upon a
8 determination that the enforcement practices are being conducted as
9 provided in subparagraphs a, b and c of paragraph 4 of this
10 subsection, the Attorney General shall notify the Commissioner in
11 writing, and the Commissioner shall make the designation of special
12 traffic-related enforcement as provided in paragraph 3 of this
13 subsection, which shall stay in force for such time as determined by
14 the Commissioner.

15 E. Nothing in this section shall limit a member of the Oklahoma
16 Highway Patrol Division from requesting assistance from any other
17 law enforcement agency nor limit officers of such agency from
18 rendering the requested assistance. The officer and the law
19 enforcement agency responding to the request of the member of the
20 Oklahoma Highway Patrol Division or sheriff's department shall have
21 the same rights and immunities as are possessed by the Oklahoma
22 Highway Patrol Division.

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

6 SECTION 2. This act shall become effective November 1, 2006.

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-21-06 - DO
8 PASS, As Amended and Coauthored.