

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE FOR ENGROSSED
5 HOUSE BILL NO. 3003

By: Johnson (Rob) and Worthen
of the House

6 and

7 Bingman and Branam of the
8 Senate

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to state government; amending 70 O.S.
11 2001, Section 3311.5, as last amended by Section 45
12 of Enrolled Senate Bill No. 1830 of the 2nd Session
13 of the 51st Oklahoma Legislature, which relates to
14 required curriculum for law enforcement
15 certification; requiring inclusion of specified
16 training for law enforcement certification; amending
17 74 O.S. 2001, Sections 152.2, 152.3, 152.6 and 152.9,
18 which relate to definitions, duties, inspections and
19 forfeiture proceedings of the Oklahoma State Bureau
20 of Investigation; adding and modifying certain
21 definitions; clarifying agency designation; expanding
22 certain powers and duties; expanding inspection
23 authority to include oil field equipment; updating
24 statutory references; authorizing the seizure and
forfeiture of trailers used to transport unlawful oil
or gas; providing procedures for purchasing or
acquiring certain equipment and used materials;
requiring records be kept for certain period of time;
providing penalty for noncompliance; authorizing
inspection of premises and records by certain agents
and law enforcement personnel; prohibiting
interference with inspections; requiring inspection
be conducted in prompt and reasonable manner;
providing for codification; and providing an
effective date.

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

2 SECTION 1. AMENDATORY 70 O.S. 2001, Section 3311.5, as
3 last amended by Section 45 of Enrolled Senate Bill No. 1830 of the
4 2nd Session of the 51st Oklahoma Legislature, is amended to read as
5 follows:

6 Section 3311.5 A. On and after the effective date of this act,
7 the Council on Law Enforcement Education and Training (CLEET),
8 pursuant to its authority granted by Section 3311 of this title,
9 shall include in its required basic training courses for law
10 enforcement certification a minimum of four (4) hours of education
11 and training relating to recognizing and managing a person appearing
12 to require mental health treatment or services. The Council shall
13 further offer a minimum of four (4) hours of education and training
14 on specific mental health issues pursuant to Section 3311.4 of this
15 title to meet the annual requirement for continuing education in the
16 areas of mental health issues.

17 B. By January 1, 2008, CLEET, pursuant to its authority granted
18 by Sections 3311 and 3311.4 of this title, shall include in its
19 required courses of study for law enforcement certification a
20 minimum of six (6) hours of evidence-based sexual assault and sexual
21 violence training. A portion of the sexual assault and sexual
22 violence training shall include instruction presented by a certified
23 sexual assault service provider.

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1 C. By January 1, 2012, every active full-time peace officer,
2 previously certified by CLEET pursuant to Section 3311 of this
3 title, shall be required to attend and complete the evidence-based
4 sexual assault and sexual violence training provided in subsection B
5 of this section.

6 D. CLEET shall promulgate rules to enforce the provisions of
7 subsections B and C of this section and shall, with the assistance
8 of certified sexual assault service providers, establish a
9 comprehensive integrated curriculum for the teaching of evidence-
10 based sexual assault and sexual violence issues.

11 E. The Council is required to update that block of training or
12 course materials relating to legal issues, concepts, and state laws
13 annually, but not later than ninety (90) days following the
14 adjournment of any legislative session.

15 F. By January 1, 2009, CLEET, pursuant to its authority granted
16 by Sections 3311 and 3311.4 of this title, shall include in its
17 required courses of study for law enforcement certification a
18 minimum of four (4) hours of oil field equipment theft training.

19 G. The Council is authorized to pay for and send training staff
20 and employees to one or more training and education courses in
21 jurisdictions outside this state for the purpose of expanding
22 curriculum, training skill development, and general knowledge within
23 the field of law enforcement education and training.

1 ~~G.~~ H. The Council shall promulgate rules to evaluate and
2 approve municipalities and counties that are deemed capable of
3 conducting separate basic law enforcement training academies in
4 their jurisdiction and to certify officers successfully completing
5 such academy training courses. Upon application to the Council, any
6 municipality with a population of sixty-five thousand (65,000) or
7 more or any county with a population of five hundred thousand
8 (500,000) or more shall be authorized to operate a basic law
9 enforcement academy. The Council shall approve an application when
10 the municipality or county making the application meets the criteria
11 for a separate training academy and demonstrates to the satisfaction
12 of the Council that the academy has sufficient resources to conduct
13 the training, the instructional staff is appropriately trained and
14 qualified to teach the course materials, the curriculum is composed
15 of comparable or higher quality course segments to the CLEET academy
16 curriculum, and the facilities where the academy will be conducted
17 are safe and sufficient for law enforcement training purposes. Any
18 municipality or county authorized to operate a basic law enforcement
19 academy after November 1, 2007, shall not be eligible to receive
20 funds pursuant to subsection E of Section 1313.2 of Title 20 of the
21 Oklahoma Statutes. The Council shall not provide any funding for
22 the operation of any separate training academy authorized by this
23 subsection.

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1 ~~H.~~ I. Any municipality or county that, prior to November 1,
2 2007, was authorized to conduct a basic law enforcement academy
3 shall continue to receive funding pursuant to subsection E of
4 Section 1313.2 of Title 20 of the Oklahoma Statutes.

5 SECTION 2. AMENDATORY 74 O.S. 2001, Section 152.2, is
6 amended to read as follows:

7 Section 152.2 For purposes of this act:

8 1. "Broker" means every person whose primary business is
9 buying, selling, or otherwise dealing in used materials as agent for
10 the seller of the used materials, or as agent for the buyer of the
11 used materials, or as agent for both;

12 2. "Bureau" means the Oklahoma State Bureau of Investigation;

13 ~~2-~~ 3. "Dealer" means every person whose primary business is
14 buying, selling, or otherwise dealing in used materials and who has
15 a fixed, designated place or places of business within this state;

16 4. "Director" means the Director of the Oklahoma State Bureau
17 of Investigation;

18 ~~3-~~ 5. "Gas" means natural gas, including casinghead gas, and
19 any and all other hydrocarbons not defined as oil;

20 6. "Load ticket" means an invoice or other shipping paper
21 described and required by Section 1013 of Title 68 of the Oklahoma
22 Statutes or other manifest required by state or federal law
23 describing the cargo;

24

1 7. "Oil" means crude petroleum oil, and any other liquid
2 hydrocarbons, regardless of gravity, which are produced at the well
3 in liquid form by ordinary production methods;

4 8. "Oil field equipment" means equipment, machinery or
5 materials that are part of or incident to drilling, well servicing,
6 exploration, development, maintenance, production, transportation
7 and operation of oil and gas properties and includes equipment and
8 materials that are part of or incident to the construction,
9 maintenance and operation of oil and gas wells, oil and gas leases,
10 gasoline plants and refineries;

11 9. "Oil reclaimer" means any person who reclaims, salvages, or
12 in any manner removes or extracts oil from the waste products
13 associated with the production, storage, and transportation of oil,
14 including but not limited to salt water, and the residue from oil
15 storage tank bottoms;

16 10. "Peddler" means every person who is not a dealer or broker
17 and whose primary business is buying, selling, or otherwise dealing
18 in used materials;

19 11. "Person" means any individual, copartnership, corporation,
20 common law or statutory trust or association of whatever character;

21 ~~4. "Oil" means crude petroleum oil, and any other hydrocarbons,~~
22 ~~regardless of gravity, which are produced at the well in liquid form~~
23 ~~by ordinary production methods;~~

1 ~~5. "Oil reclaimer" means any person who reclaims, salvages, or~~
2 ~~in any manner removes or extracts oil from the waste products~~
3 ~~associated with the production, storage, and transportation of oil,~~
4 ~~including but not limited to salt water, and the residue from oil~~
5 ~~storage tank bottoms;~~

6 ~~6. "Load ticket" means an invoice or other shipping paper~~
7 ~~described and required by Section 1013 of Title 68 of the Oklahoma~~
8 ~~Statutes or other manifest required by state or federal law~~
9 ~~describing the cargo;~~

10 ~~7. "Gas" means natural gas, including casinghead gas, and any~~
11 ~~and all other hydrocarbons not defined as oil;~~

12 ~~8.~~ 12. "Pipeline equipment" means all pipes, fitting, pumps,
13 telephone and telegraph lines, and all other material and equipment
14 used as part of or incident to the construction, maintenance and
15 operation of a pipeline for the transportation of oil, gas, water,
16 or other liquid or gaseous substance;

17 13. "Transportation" or "transport" means the movement of oil
18 or gas or salt water by any vehicle in this state. The term does
19 not include movement by railroad tank car or by pipeline. The term
20 transportation or transport shall not apply to the transportation of
21 oil or gas when such oil or gas is contained in the ordinary
22 equipment of a motor vehicle and is used only for the operation of
23 the motor vehicle in which contained;

1 14. "Transporter" means any person who actually transports oil
2 or gas or salt water in any vehicle on any road, street, or highway
3 in this state;

4 15. "Unlawful gas" means gas transported or taken in violation
5 of any law of this state;

6 16. "Unlawful oil" means any oil transported or taken in
7 violation of any law of this state;

8 ~~9. "Unlawful gas" means gas transported or taken in violation~~
9 ~~of any law of this state;~~

10 ~~10. "Transportation" or "transport" means the movement of oil~~
11 ~~or gas or salt water by any vehicle in this state. The term does~~
12 ~~not include movement by railroad tank car or by pipeline. The term~~
13 ~~transportation or transport shall not apply to the transportation of~~
14 ~~oil or gas when such oil or gas is contained in the ordinary~~
15 ~~equipment of a motor vehicle and is used only for the operation of~~
16 ~~the motor vehicle in which contained;~~

17 ~~11. "Transporter" means any person who actually transports oil~~
18 ~~or gas or salt water in any vehicle on any road, street, or highway~~
19 ~~in this state;~~

20 ~~12.~~ 17. "Used materials" means pipeline equipment or oil field
21 equipment after the equipment has once been placed in the use for
22 which it first was manufactured and intended; and

23 18. "Vehicle" means every device in, upon, or in which any
24 person or property is or may be transported or drawn; and

1 ~~13. "Oil field equipment" means equipment or machinery used in~~
2 ~~the exploration for, production of, or transportation of oil or gas.~~

3 SECTION 3. AMENDATORY 74 O.S. 2001, Section 152.3, is
4 amended to read as follows:

5 Section 152.3 In addition to the other powers and duties of the
6 Oklahoma State Bureau of Investigation provided by law, the Bureau
7 shall have the power and duty to:

8 1. Review records from any oil reclaimer to ensure that oil is
9 not stolen; ~~and~~

10 2. To enter upon any public or private property to conduct
11 inspections at reasonable hours to ensure that any operation of an
12 oil reclaiming facility is not a conduit for unlawful oil and for
13 the purpose of investigating oil or gas theft operations and to take
14 necessary action if any operation is found to be a conduit for
15 stolen oil or gas; ~~and~~

16 3. Advise, consult, and cooperate with other agencies of this
17 state, the federal government, other states and interstate agencies,
18 and with affected groups and political subdivisions concerning oil
19 reclaiming operations, the transportation of unlawful oil and
20 unlawful gas and stolen oil field equipment; ~~and~~

21 4. Institute and maintain or intervene in any action or
22 proceeding where deemed necessary by the Bureau to ensure that any
23 operation of an oil reclaiming facility is not a conduit for
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1 unlawful oil or for the purpose of prosecuting persons involved in
2 oil field equipment theft; ~~and~~

3 5. Conduct investigations of organized oil or gas theft rings
4 and stolen oil field equipment rings; ~~and~~

5 6. Determine sources and outlets for unlawful oil or unlawful
6 gas or stolen oil field equipment; ~~and~~

7 7. Stop any vehicle transporting or appearing to transport any
8 oil ~~or~~, gas or salt water, for the purpose of inspecting, measuring,
9 and taking samples of the cargo and inspecting load tickets to
10 ensure that such vehicle is not transporting unlawful gas or
11 unlawful oil; ~~and~~

12 8. Stop any vehicle transporting or appearing to transport any
13 oil field equipment, for the purpose of inspecting the cargo being
14 transported and to inspect bills of lading to ensure that the
15 vehicle is not transporting stolen oil field equipment;

16 9. Investigate any theft of oil or gas or oil field equipment
17 of which the agency receives notice; ~~and~~

18 ~~9.~~ 10. Arrest or cause the arrest of any person when reasonable
19 grounds exist to believe such person ~~has~~ is in possession of
20 unlawful oil, unlawful gas or stolen oil field equipment; ~~and~~

21 ~~10.~~ 11. Coordinate the efforts of this state to reduce oil, gas
22 and oil field equipment theft with local, state, and federal law
23 enforcement agencies; ~~and~~

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1 ~~11.~~ 12. Develop educational programs on detection and
2 prevention of oil, gas and oil field equipment theft; and

3 ~~12.~~ 13. Exercise all incidental powers necessary and proper for
4 the administration and enforcement of the provisions of this act.

5 SECTION 4. AMENDATORY 74 O.S. 2001, Section 152.6, is
6 amended to read as follows:

7 Section 152.6 A. Each agent of the Oklahoma State Bureau of
8 Investigation, each agent of the Federal Bureau of Investigation,
9 each highway patrolman ~~and~~, each sheriff and each state-certified
10 peace officer in this state is authorized to stop any vehicle
11 transporting or appearing to transport oil ~~or~~, gas or salt water,
12 for the purpose of inspecting, measuring, and taking samples of the
13 cargo and inspecting the load ticket of such vehicle to ensure that
14 the cargo conforms to such load ticket. Except as authorized in
15 subsection ~~B~~ C of this section, upon stopping any vehicle pursuant
16 to this section, such patrolmen, agents, ~~or~~, sheriffs or peace
17 officers are not authorized to take any samples of the cargo of such
18 vehicle until the vehicle arrives at its destination as indicated on
19 its load ticket.

20 B. Each agent of the Oklahoma State Bureau of Investigation,
21 each agent of the Federal Bureau of Investigation, each highway
22 patrolman, each sheriff and each state-certified peace officer in
23 this state is authorized to stop any vehicle transporting or
24 appearing to transport oil field equipment, for the purpose of

1 inspecting the cargo and inspecting the bill of lading of the
2 vehicle to ensure that the cargo conforms to the bill of lading.

3 C. Such patrolmen, agents, ~~or~~ sheriffs or peace officers may
4 take samples of the cargo of such vehicle if the vehicle has an
5 out-of-state destination as indicated on its load ticket or if no
6 destination is indicated on the load ticket.

7 ~~C.~~ D. A rebuttable presumption that the cargo is unlawful oil
8 or unlawful gas and probable cause for the arrest of any person
9 transporting oil ~~or~~, gas or salt water and the seizure of the
10 vehicle and the oil or gas transported in the vehicle pursuant to
11 Section 7 152.8 of this ~~act~~ title shall be established if:

12 1. The person transporting oil or gas or salt water fails to
13 produce the load ticket upon proper request therefor;

14 2. The load ticket does not contain such information so as to
15 describe or otherwise evidence the cargo as required by state or
16 federal laws; or

17 3. The inspection, measuring, or taking samples of said oil or
18 gas or salt water reveals that the contents of the vehicle are not
19 the same as those described in the load ticket.

20 SECTION 5. AMENDATORY 74 O.S. 2001, Section 152.9, is
21 amended to read as follows:

22 Section 152.9 A. Any person authorized to stop and inspect a
23 vehicle pursuant to Section 5 152.6 of this ~~act~~ title shall seize
24 any unlawful oil or unlawful gas and shall seize any vehicle or

1 trailer which is being used to transport such unlawful oil or
2 unlawful gas. Except as authorized by Section 7 152.8 of this ~~act~~
3 title, such property shall be held as evidence until a forfeiture
4 has been declared or a release ordered.

5 B. Notice of seizure and intended forfeiture proceeding shall
6 be filed in the office of the clerk of the district court for the
7 county in which such unlawful oil or unlawful gas and vehicle or
8 trailer is seized and shall be given all owners and parties in
9 interest.

10 C. Notice shall be given to:

11 1. The Oklahoma Tax Commission Gross Production Division;

12 2. Each owner or party in interest whose rights, title, or
13 interest is of record in the Oklahoma Tax Commission, by mailing a
14 copy of the notice by certified mail to the address as given upon
15 the records of the Oklahoma Tax Commission;

16 3. Each owner or party in interest whose name and address is
17 known, by mailing a copy of the notice by registered mail to the
18 last-known address; and

19 4. All other owners, whose addresses are unknown, but who are
20 believed to have an interest in the unlawful oil or unlawful gas ~~or~~,
21 vehicle or trailer, by one publication in a newspaper of general
22 circulation in the county where the seizure was made.

23 D. Within sixty (60) days after the mailing or publication of
24 the notice, the owner of the unlawful oil or unlawful gas ~~or~~,

1 vehicle or trailer and any other party in interest or claimant may
2 file a verified answer and claim to the unlawful oil or unlawful gas
3 ~~or~~, vehicle or trailer described in the notice of seizure and of the
4 intended forfeiture proceeding.

5 E. If at the end of sixty (60) days after the notice has been
6 mailed or published there is no verified answer on file, the court
7 shall hear evidence upon the fact of the unlawful use and shall
8 order the unlawful oil or unlawful gas ~~or~~, vehicle or trailer
9 forfeited to the state, if such fact is proved.

10 F. If a verified answer is filed, the forfeiture proceeding
11 shall be set for hearing.

12 G. At the hearing the state shall prove beyond a reasonable
13 doubt by competent evidence that the oil or gas seized is unlawful
14 oil or unlawful gas and that any vehicle or trailer seized was being
15 used to transport ~~said~~ the unlawful oil or unlawful gas.

16 H. The claimant of any right, title, or interest in the
17 unlawful oil, unlawful gas ~~or~~, vehicle or trailer may prove ~~his~~ that
18 the lien mortgage or conditional sales contract ~~to be~~ of the
19 claimant is bona fide and that ~~his~~ such right, title, or interest
20 was created without any knowledge of the unlawfulness of the oil or
21 gas or that ~~said~~ the oil or gas became unlawful without ~~his~~ the
22 knowledge of the claimant after the creation of ~~his~~ the interest of
23 the claimant, or that the vehicle or trailer was being used for the
24 purpose charged without ~~his~~ the knowledge of the claimant.

1 I. In the event of such proof, the court shall order the
2 unlawful oil or unlawful gas ~~or,~~ vehicle or trailer released to the
3 bona fide or innocent owner, lien holder, mortgagee, or vendor if
4 the amount due ~~him~~ the person is equal to, or in excess of, the
5 value of the unlawful oil or unlawful gas ~~or,~~ vehicle or trailer as
6 of the date of the seizure.

7 J. If the amount due to such person is less than the value of
8 the unlawful oil or unlawful gas ~~or,~~ vehicle or trailer or if no
9 bona fide claim is established, the unlawful oil or unlawful gas
10 ~~and,~~ vehicle, trailer or bond shall be forfeited to the state and
11 the unlawful oil or unlawful gas ~~and,~~ vehicle or trailer shall be
12 sold under judgment of the court, as on sale upon execution.

13 K. The proceeds of the sale of any unlawful oil or unlawful gas
14 ~~or,~~ vehicle, trailer or bond shall be distributed as follows, in the
15 order indicated:

16 1. All gross production and petroleum excise taxes due to the
17 Oklahoma Tax Commission;

18 2. To the bona fide innocent purchaser, conditional sales
19 vendor, or mortgagee of the unlawful gas or unlawful oil ~~or,~~ vehicle
20 or trailer, if any, up to the amount of ~~his~~ the interest of the
21 person in the unlawful gas or unlawful oil ~~or,~~ vehicle or trailer,
22 when the court declaring the forfeiture orders a distribution to
23 such person;

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1 3. To the payment of the actual expenses of preserving the
2 property;

3 4. The remainder of such proceeds shall be remitted forthwith
4 as follows:

5 a. fifty percent (50%) thereof with the county treasurer
6 to be credited to the general fund of the county and
7 so reported, and

8 b. fifty percent (50%) shall be transmitted to the State
9 Treasurer and shall be placed to the credit of the
10 agency bringing the action or on whose behalf the
11 action is brought; and

12 5. The sheriff executing ~~said~~ the sale shall issue a bill of
13 sale or certificate to the purchaser of ~~said~~ the oil or gas and the
14 Tax Commission, upon the presentation of ~~said~~ the certificate of
15 clearance, shall issue a license, if a license is required,
16 permitting the purchaser of ~~said~~ the oil or gas to move the same
17 into commerce.

18 L. If the court finds that oil or gas seized is not unlawful,
19 the court shall order the ~~said~~ oil or gas released to the owner and
20 shall order any vehicle or trailer used to transport ~~said~~ the oil
21 and gas released to the owner as ~~his~~ the right, title, or interest
22 of the owner appears on the record of the Oklahoma Tax Commission as
23 of the date of the seizure.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 152.11 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Before purchasing or acquiring pipeline equipment, oil field
5 equipment or used materials, a dealer, broker, or peddler shall
6 require that a bill of sale or invoice for the used materials be
7 executed by the seller or the person who acquires the pipeline
8 equipment, oil field equipment or used materials. The dealer,
9 broker, or peddler shall keep a copy of each bill of sale or invoice
10 at the place of business of the dealer, broker or peddler.

11 B. The bill of sale or invoice shall include:

12 1. The name and address of the dealer, broker, or peddler;

13 2. The serial or other identifying number of the pipeline
14 equipment, oil field equipment or used materials, if available;

15 3. The kind, make, size, weight, length, and quantity of the
16 pipeline equipment, oil field equipment or used materials purchased
17 or acquired;

18 4. The date of the purchase or acquisition, if different from
19 the date of the bill of sale or invoice;

20 5. The name and address of the seller; and

21 6. The legal description and well name or physical address of
22 the property at the time purchased or acquired.

23 C. A dealer, broker or peddler shall keep at the place of
24 business of the dealer, broker or peddler all records required to be

1 kept pursuant to this section for two (2) years after the date of
2 the purchase or acquisition of the materials.

3 D. A person, dealer, peddler or broker who violates the
4 provisions of this section shall, upon conviction, be punished by a
5 fine of not less than Five Hundred Dollars (\$500.00) for each
6 violation.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 152.12 of Title 74, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Any agent of the Oklahoma State Bureau of Investigation, any
11 agent of the Federal Bureau of Investigation, any commissioned
12 officer of the Department of Public Safety, and each sheriff in this
13 state may enter the business premises of a dealer, broker or peddler
14 during normal business hours to inspect the premises and the records
15 of the dealer, broker or peddler to determine whether the dealer,
16 broker or peddler is in compliance with the requirements provided in
17 Section 6 of this act.

18 B. A dealer, broker or peddler must allow and shall not
19 interfere with inspections conducted pursuant to this section.

20 C. Each inspection conducted under this section shall be
21 commenced and completed with reasonable promptness and shall be
22 conducted in a reasonable manner.

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1 SECTION 8. This act shall become effective January 1, 2009.

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