

THE HOUSE OF REPRESENTATIVES
Thursday, April 3, 2008

ENGROSSED
Senate Bill No. 1384

ENGROSSED SENATE BILL NO. 1384 - By: BARRINGTON of the Senate and BILLY of the House.

An Act relating to public safety; amending 47 O.S. 2001, Sections 11-702, as last amended by Section 13, Chapter 418, O.S.L. 2004, 15-112, as last amended by Section 17, Chapter 326, O.S.L. 2007, 40-102, as last amended by Section 14, Chapter 394, O.S.L. 2005, 158.2, 1602, as amended by Section 18, Chapter 62, O.S.L. 2007, and 1603, as amended by Section 19, Chapter 62, O.S.L. 2007 (47 O.S. Supp. 2007, Sections 11-702, 15-112, 40-102, 1602, and 1603), which relate to railroad crossings, physical disability placards, traffic collision reports, operation of vehicles by state departments, definitions, and the refueling service program; requiring buses to comply with certain railroad crossing provisions; removing certain fee for physical disability placards; clarifying language regarding use of certain data for commercial purposes; declaring operation of vehicles by certain state departments to be a public governmental function; limiting applicability of certain definitions; specifying statutory section which establishes certain program; amending 63 O.S. 2001, Section 2805, as amended by Section 54, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2007, Section 2805), which relates to 911 systems; updating references to certain state entities; repealing 47 O.S. 2001, Section 12-418, which relates to assessment of points to driving records; providing for recodification; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 11-702, as last amended by
2 Section 13, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2007, Section 11-702), is amended to
3 read as follows:

1 Section 11-702. The driver of a bus as defined in Section 1-105 of this title or any
2 commercial motor vehicle as defined in 49 C.F.R., Section 390.5, shall comply with the
3 railroad crossing provisions as prescribed in 49 C.F.R., Section 392.10.

4 SECTION 2. AMENDATORY 47 O.S. 2001, Section 15-112, as last amended by
5 Section 17, Chapter 326, O.S.L. 2007 (47 O.S. Supp. 2007, Section 15-112), is amended to
6 read as follows:

7 Section 15-112. A. As used in this section:

8 1. "Physician" means any person holding a valid license to practice medicine and
9 surgery, osteopathic medicine, chiropractic, podiatric medicine, or optometry, pursuant to
10 the state licensing provisions of Title 59 of the Oklahoma Statutes;

11 2. "Physician assistant" means any person holding a valid license as a physician
12 assistant, pursuant to the state licensing provisions of the Physician Assistant Act;

13 3. "Advanced registered nurse practitioner" means any person who holds a current
14 license as a registered nurse and a current certificate of recognition for practice as an
15 Advanced Registered Nurse Practitioner as set forth in the Oklahoma Nursing Practice
16 Act pursuant to the state licensing provisions contained in paragraph 5 of Section 567.3a
17 of Title 59 of the Oklahoma Statutes; and

18 4. "Physical disability" means an illness, disease, injury or condition by reason of
19 which a person:

20 a. cannot walk two hundred (200) feet without stopping to rest,

- 1 b. cannot walk without the use of or assistance from a brace, cane, crutch,
2 another person, prosthetic device, wheelchair or other assistance
3 device,
4 c. is restricted to such an extent that the person's forced (respiratory)
5 expiratory volume for one (1) second, when measured by spirometry, is
6 less than one (1) liter, or the arterial oxygen tension is less than sixty
7 (60) mm/hg on room air at rest,
8 d. must use portable oxygen,
9 e. has functional limitations which are classified in severity as Class III
10 or Class IV according to standards set by the American Heart
11 Association,
12 f. is severely limited in the person's ability to walk due to an arthritic,
13 neurological or orthopedic condition, or from complications due to
14 pregnancy,
15 g. is certified legally blind, or
16 h. is missing one or more limbs.

17 B. 1. The Department of Public Safety shall issue a detachable placard indicating
18 physical disability to any person who submits an application on a form furnished by the
19 Department and certified by a physician, physician assistant, or advanced registered
20 nurse practitioner attesting that the applicant has a physical disability. The attestation
21 of the physician, physician assistant, or advanced registered nurse practitioner shall
22 denote "temporary" as the type of placard requested and shall indicate an expiration date

1 which the physician, physician assistant, or advanced registered nurse practitioner
2 estimates to be the date of termination of such physical disability; however, if the
3 physician, physician assistant, or advanced registered nurse practitioner certifies that
4 the physical disability is permanent, the physician, physician assistant, or advanced
5 registered nurse practitioner shall denote “five-year” as the type of placard requested.

6 2. The person to whom such placard is issued shall be entitled to the special
7 parking privileges provided for in Section 15-111 of this title; provided, however, the
8 placard is properly displayed on the parked vehicle.

9 C. Any placard issued by the Department of Public Safety shall remain valid until:

10 1. The placard expires;

11 2. The person to whom the placard was issued requests a replacement placard; or

12 3. The placard is no longer needed by the person to whom the placard was issued
13 for the disability for which the placard was originally issued, whereupon such placard
14 shall be returned to the Department.

15 D. 1. A five-year placard shall expire five (5) years from the last day of the month
16 in which the placard was issued. Upon the expiration of a five-year placard, the person
17 to whom such placard was issued may obtain a subsequent placard by reapplying to the
18 Department, in the same manner as provided in subsection B of this section.

19 2. A temporary placard shall indicate the expiration date which the physician,
20 physician assistant, or advanced registered nurse practitioner certifying the physical
21 disability estimates to be the date of termination of such physical disability, which shall
22 not be later than six (6) months from the date of issuance and upon which date such

1 placard shall expire and shall be returned to the Department; provided, however, nothing
2 in this paragraph shall be construed to prevent the holder from applying for another
3 placard, as provided for in this section.

4 3. In the event that a placard is lost or destroyed, the person to whom such placard
5 was issued may apply in writing to the Department for a replacement placard, which the
6 Department shall issue with the same expiration date as the original placard.

7 4. On and after January 1, 1998, all placards issued prior to October 31, 1990, shall
8 expire on the last day of the month in which the placard was issued, and the person to
9 whom such placard was issued may follow the procedure provided for in subsection B of
10 this section to obtain a second or subsequent placard.

11 5. On and after January 1, 2000, all placards issued between November 1, 1990,
12 and June 30, 1995, shall expire on the last day of the birth month of the person to whom
13 the placard was issued, and the person to whom such placard was issued may follow the
14 procedure provided for in subsection B of this section to obtain a second or subsequent
15 placard.

16 E. A physician, physician assistant, or advanced registered nurse practitioner may
17 sign an application certifying that a person has a physical disability, as provided in
18 subsection B of this section, only if care and treatment of the illness, disease, injury or
19 condition causing the physical disability of such person falls within the authorized scope
20 of practice of the physician or physician assistant, or advanced registered nurse
21 practitioner.

1 F. The Department shall recognize handicap and disability stickers issued by the
2 Department of Veterans Affairs and federal military bases in the same manner as the
3 placard issued by the Department as provided for in this section. For purposes of this
4 section and other sections of law relating to the physical disability placard, the term
5 “physical disability placard” shall include those handicap and disability stickers issued
6 by the Department of Veterans Affairs and federal military bases.

7 G. The Department shall have the power to formulate, adopt and promulgate rules
8 as may be necessary to implement and administer the provisions of this section,
9 including, but not limited to, prescribing the manner in which the placard is to be
10 displayed on a motor vehicle.

11 H. The Commissioner of Public Safety is hereby authorized to enter into reciprocity
12 agreements with other states for the purpose of recognizing parking placards or license
13 plates indicating physical disability issued by those states.

14 ~~I. The Department shall charge and the applicant shall pay to the Department a~~
15 ~~fee of One Dollar (\$1.00) for each placard issued. The fee shall be deposited in the~~
16 ~~Department of Public Safety Revolving Fund.~~

17 SECTION 3. AMENDATORY 47 O.S. 2001, Section 40-102, as last amended by
18 Section 14, Chapter 394, O.S.L. 2005 (47 O.S. Supp. 2007, Section 40-102), is amended to
19 read as follows:

20 Section 40-102. A. 1. Every law enforcement officer who, in the regular course of
21 duty, investigates or receives a report of a traffic collision resulting in injury to or death
22 of a person or total property damage to an apparent extent of Five Hundred Dollars

1 (\$500.00) or more shall prepare a written report of the collision on the standard collision
2 report form supplied by the Department of Public Safety. The reports shall be forwarded
3 within thirty (30) days of the collision or, if the collision results in the death of any
4 person, then within twenty (20) days of the death of the person, whichever time period is
5 lesser, by the law enforcement agency preparing the report to the Department of Public
6 Safety.

7 2. Reports of collisions shall be kept confidential for a period of sixty (60) days after
8 the date of the collision; provided, the reports shall be made available as soon as
9 practicable upon request to any:

- 10 a. party involved in the collision,
- 11 b. legal representatives of a party involved in the collision,
- 12 c. state, county or city law enforcement agency,
- 13 d. the Department of Transportation or any county or city transportation
14 or road and highway maintenance agency,
- 15 e. licensed insurance agents of a party involved in the collision,
- 16 f. insurer of a party involved in the collision,
- 17 g. insurer to which a party has applied for coverage,
- 18 h. person under contract with an insurer, as described in subparagraph e,
19 f or g of this paragraph, to provide claims or underwriting information,
- 20 i. prosecutorial authority,
- 21 j. newspaper as defined in Section 106 of Title 25 of the Oklahoma
22 Statutes,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 k. radio or television broadcaster,
- 2 l. licensed private investigators employed by a party involved in the
- 3 collision, or
- 4 m. provider of health services to a party involved in the collision.

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

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

18 2. As used in this subsection:

- 19 a. "commercial solicitation" means any attempt to use, or offer for use,
- 20 information contained in a collision report to solicit any person named
- 21 in the report, or a relative of the person, or to solicit a professional,
- 22 business, or commercial relationship. "Commercial solicitation" does

1 not include publication in a newspaper, as defined in Section 106 of
2 Title 25 of the Oklahoma Statutes, or broadcast of information by news
3 media for news purposes, or obtaining information for the purpose of
4 verification or settlement of claims by insurance companies, and

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

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

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

4 C. As used in this section:

5 1. "Newspaper" means a legal newspaper as defined in Section 106 of Title 25 of the
6 Oklahoma Statutes, provided that the primary purpose of the newspaper is not the
7 publication of personally identifying information concerning parties involved in the
8 traffic collision; and

9 2. "Provider of health services" means any person that provides health care services
10 to the injured person under a license, certification or registration issued pursuant to Title
11 59 of the Oklahoma Statutes, or any hospital or related institution that offers or provides
12 health care services under a license issued pursuant to Section 1-702 et seq. of Title 63 of
13 the Oklahoma Statutes.

14 SECTION 4. AMENDATORY 47 O.S. 2001, Section 158.2, is amended to read
15 as follows:

16 Section 158.2 The operation of ~~such~~ vehicles, motorized machinery and equipment
17 by the ~~departments described in Section 158.1 of this title~~ Department of Central
18 Services, the State Department of Health, the Department of Public Safety, the
19 Department of Mental Health and Substance Abuse Services, the Department of
20 Corrections, and all other state departments and agencies not otherwise specifically
21 authorized by law, is hereby declared to be a public governmental function. An action for
22 damages may be brought against such departments, but the governmental immunity of

1 such departments shall be waived only to the extent of the amount of insurance
2 purchased. The departments shall be liable for negligence only while such insurance is
3 in force, but in no case in an amount exceeding the limits of the coverage of any such
4 insurance policy. No attempt shall be made in the trial of any action brought against any
5 such departments to suggest the existence of any insurance which covers in whole or in
6 part any judgment or award which may be rendered in favor of the plaintiff, and if the
7 verdict rendered by the jury exceeds the limits of the applicable insurance, the court
8 shall reduce the amount of said judgment or award to a sum equal to the applicable
9 limits stated in the policy. The insurer may not plead as a defense in any action involving
10 insurance purchases by the authority of this ~~Act~~ section the governmental immunity of
11 either the State of Oklahoma, the State Department of Health, Department of Public
12 Safety, Department of Mental Health and Substance Abuse Services, or the ~~Oklahoma~~
13 ~~State Penitentiary~~ Department of Corrections.

14 SECTION 5. AMENDATORY 47 O.S. 2001, Section 1602, as amended by
15 Section 18, Chapter 62, O.S.L. 2007 (47 O.S. Supp. 2007, Section 1602), is amended to
16 read as follows:

17 Section 1602. As used in ~~Sections~~ Section 1603 ~~and 1604~~ of this title:

- 18 1. "Refueling service" means the service of pumping motor vehicle fuel into the fuel
19 tank of a motor vehicle;
- 20 2. "Mobility-impaired driver" means a person with a physical disability, as defined
21 in Section 15-112 of this title; and

1 3. "Motor vehicle service station" means any facility where motor vehicle fuel is
2 stored and dispensed into the fuel tanks of motor vehicles of the public.

3 SECTION 6. AMENDATORY 47 O.S. 2001, Section 1603, as amended by
4 Section 19, Chapter 62, O.S.L. 2007 (47 O.S. Supp. 2007, Section 1603), is amended to
5 read as follows:

6 Section 1603. A. Unless otherwise provided in this section, any motor vehicle
7 service station in this state which offers gasoline or other motor vehicle fuel for sale to
8 the public from the service station facility may, on a voluntary basis, participate in the
9 refueling service program and upon request offer refueling service to a mobility-impaired
10 driver who displays:

11 1. A placard indicating physical disability, issued pursuant to the provisions of
12 Section 15-112 of this title;

13 2. A physically disabled license plate, issued pursuant to the provisions of Section
14 1135.1 of this title; or

15 3. A disabled veterans license plate with the international accessibility symbol
16 issued pursuant to the provisions of Section 1135.2 of this title.

17 B. The refueling service provided for under subsection A of this section shall not
18 apply when the mobility-impaired driver is accompanied by another person capable of
19 refueling the motor vehicle.

20 C. Each participating motor vehicle service station in the state shall post signs
21 notifying the public of the refueling services provided by the facility.

1 D. Only those motor vehicle service stations which voluntarily participate in the
2 refueling service program established in ~~Sections 1601 through 1604 of this title section~~
3 and which offer gasoline or other motor vehicle fuel for sale to the public shall be
4 required to comply with the provisions of this section.

5 SECTION 7. AMENDATORY 63 O.S. 2001, Section 2805, as amended by
6 Section 54, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2007, Section 2805), is amended to
7 read as follows:

8 Section 2805. In order to insure that proper preparation and implementation of
9 such systems can be accomplished as provided in Section 2803 of this title, the
10 Department of Public Safety may develop an overall plan prior to development of any
11 system and shall coordinate the implementation of systems to be established pursuant to
12 the provisions of ~~this act~~ Section 2803 of this title. Any such plan shall contain an
13 estimate of the costs of installing alternate 911 systems and an estimate of the first
14 year's additional operating expenses, if any. The Department may formulate a plan by
15 which it and the public agencies and public safety agencies involved may share
16 proportionately the costs of any system and method from their current funds. The
17 Department may aid such agencies in the formulation of concepts, methods and
18 procedures which will improve the operation of systems and which will increase
19 cooperation between public safety agencies. The Department may consult at regular
20 intervals with ~~the Oklahoma Highway Safety Coordinating Committee~~, the State Fire
21 Marshal, the Oklahoma ~~Crime Commission~~ State Bureau of Investigation, the State

1 Department of Health, the Department of Emergency Management and the public
2 utilities in this state providing telephone service.

3 SECTION 8. REPEALER 47 O.S. 2001, Section 12-418, is hereby repealed.

4 SECTION 9. RECODIFICATION 47 O.S. 2001, Section 11-1007.1 shall be
5 recodified as Section 15-115 of Title 47 of the Oklahoma Statutes, unless there is created
6 a duplication in numbering.

7 SECTION 10. RECODIFICATION 47 O.S. 2001, Section 11-1008 shall be
8 recodified as Section 15-116 of Title 47 of the Oklahoma Statutes, unless there is created
9 a duplication in numbering.

10 SECTION 11. RECODIFICATION Section 1, Chapter 318, O.S.L. 2002 (47 O.S.
11 Supp. 2007, Section 1151.2), shall be recodified as Section 1116.2 of Title 47 of the
12 Oklahoma Statutes, unless there is created a duplication in numbering.

13 SECTION 12. RECODIFICATION Section 12, Chapter 112, O.S.L. 2007 (74
14 O.S. Supp. 2007, Section 151.2), shall be recodified as Section 2-106.3 of Title 47 of the
15 Oklahoma Statutes, unless there is created a duplication in numbering.

16 SECTION 13. It being immediately necessary for the preservation of the public
17 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
18 this act shall take effect and be in full force from and after its passage and approval.

19 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
20 TRANSPORTATION, dated 04-02-08 - DO PASS.

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