

3 Senate Bill No. 1384

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

6 An Act relating to public safety; amending 47 O.S. 2001,  
7 Sections 11-702, as last amended by Section 13, Chapter 418,  
8 O.S.L. 2004, 15-112, as last amended by Section 17, Chapter  
9 326, O.S.L. 2007, 40-102, as last amended by Section 14,  
10 Chapter 394, O.S.L. 2005, 158.2, 1602, as amended by Section  
11 18, Chapter 62, O.S.L. 2007, and 1603, as amended by Section  
12 19, Chapter 62, O.S.L. 2007 (47 O.S. Supp. 2007, Sections  
13 11-702, 15-112, 40-102, 1602, and 1603), which relate to  
14 railroad crossings, physical disability placards, traffic  
15 collision reports, operation of vehicles by state  
16 departments, definitions, and the refueling service program;  
17 requiring buses to comply with certain railroad crossing  
18 provisions; removing certain fee for physical disability  
19 placards; clarifying language regarding use of certain data  
20 for commercial purposes; declaring operation of vehicles by  
21 certain state departments to be a public governmental  
22 function; limiting applicability of certain definitions;  
23 specifying statutory section which establishes certain  
24 program; amending 63 O.S. 2001, Section 2805, as amended by  
25 Section 54, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2007,  
26 Section 2805), which relates to 911 systems; updating  
27 references to certain state entities; repealing 47 O.S.  
28 2001, Section 12-418, which relates to assessment of points  
29 to driving records; providing for recodification; and  
30 declaring an emergency.

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

32 SECTION 1. AMENDATORY 47 O.S. 2001, Section 11-702, as  
33 last amended by Section 13, Chapter 418, O.S.L. 2004 (47 O.S. Supp.  
34 2007, Section 11-702), is amended to read as follows:

35 Section 11-702. The driver of a bus as defined in Section 1-105  
36 of this title or any commercial motor vehicle as defined in 49

1 C.F.R., Section 390.5, shall comply with the railroad crossing  
2 provisions as prescribed in 49 C.F.R., Section 392.10.

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

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

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

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

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

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

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

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

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

1 registered nurse practitioner shall denote "temporary" as the type  
2 of placard requested and shall indicate an expiration date which the  
3 physician, physician assistant, or advanced registered nurse  
4 practitioner estimates to be the date of termination of such  
5 physical disability; however, if the physician, physician assistant,  
6 or advanced registered nurse practitioner certifies that the  
7 physical disability is permanent, the physician, physician  
8 assistant, or advanced registered nurse practitioner shall denote  
9 "five-year" as the type of placard requested.

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

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

16 1. The placard expires;

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

19 3. The placard is no longer needed by the person to whom the  
20 placard was issued for the disability for which the placard was  
21 originally issued, whereupon such placard shall be returned to the  
22 Department.

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

7           2. A temporary placard shall indicate the expiration date which  
8 the physician, physician assistant, or advanced registered nurse  
9 practitioner certifying the physical disability estimates to be the  
10 date of termination of such physical disability, which shall not be  
11 later than six (6) months from the date of issuance and upon which  
12 date such placard shall expire and shall be returned to the  
13 Department; provided, however, nothing in this paragraph shall be  
14 construed to prevent the holder from applying for another placard,  
15 as provided for in this section.

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

20           4. On and after January 1, 1998, all placards issued prior to  
21 October 31, 1990, shall expire on the last day of the month in which  
22 the placard was issued, and the person to whom such placard was

1 issued may follow the procedure provided for in subsection B of this  
2 section to obtain a second or subsequent placard.

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

9 E. A physician, physician assistant, or advanced registered  
10 nurse practitioner may sign an application certifying that a person  
11 has a physical disability, as provided in subsection B of this  
12 section, only if care and treatment of the illness, disease, injury  
13 or condition causing the physical disability of such person falls  
14 within the authorized scope of practice of the physician or  
15 physician assistant, or advanced registered nurse practitioner.

16 F. The Department shall recognize handicap and disability  
17 stickers issued by the Department of Veterans Affairs and federal  
18 military bases in the same manner as the placard issued by the  
19 Department as provided for in this section. For purposes of this  
20 section and other sections of law relating to the physical  
21 disability placard, the term "physical disability placard" shall  
22 include those handicap and disability stickers issued by the  
23 Department of Veterans Affairs and federal military bases.

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

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

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

14 SECTION 3. AMENDATORY 47 O.S. 2001, Section 40-102, as  
15 last amended by Section 14, Chapter 394, O.S.L. 2005 (47 O.S. Supp.  
16 2007, Section 40-102), is amended to read as follows:

17 Section 40-102. A. 1. Every law enforcement officer who, in  
18 the regular course of duty, investigates or receives a report of a  
19 traffic collision resulting in injury to or death of a person or  
20 total property damage to an apparent extent of Five Hundred Dollars  
21 (\$500.00) or more shall prepare a written report of the collision on  
22 the standard collision report form supplied by the Department of  
23 Public Safety. The reports shall be forwarded within thirty (30)

1 days of the collision or, if the collision results in the death of  
2 any person, then within twenty (20) days of the death of the person,  
3 whichever time period is lesser, by the law enforcement agency  
4 preparing the report to the Department of Public Safety.

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

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

- 1           j.    newspaper as defined in Section 106 of Title 25 of the
- 2                    Oklahoma Statutes,
- 3           k.    radio or television broadcaster,
- 4           l.    licensed private investigators employed by a party
- 5                    involved in the collision, or
- 6           m.    provider of health services to a party involved in the
- 7                    collision.

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

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

1       2. As used in this subsection:

2           a. "commercial solicitation" means any attempt to use, or  
3           offer for use, information contained in a collision  
4           report to solicit any person named in the report, or a  
5           relative of the person, or to solicit a professional,  
6           business, or commercial relationship. "Commercial  
7           solicitation" does not include publication in a  
8           newspaper, as defined in Section 106 of Title 25 of  
9           the Oklahoma Statutes, or broadcast of information by  
10          news media for news purposes, or obtaining information  
11          for the purpose of verification or settlement of  
12          claims by insurance companies, and

13          b. "collision report" means any report regarding a motor  
14          vehicle collision which has been submitted by an  
15          individual or investigating officer on a form  
16          prescribed or used by the Department of Public Safety  
17          or local police department.

18          3. Publication in a newspaper, as defined in Section 106 of  
19          Title 25 of the Oklahoma Statutes, or broadcast by news media for  
20          news purposes shall not constitute a resale or use of data for trade  
21          or commercial solicitation purposes. Because publication by a  
22          newspaper, broadcast by news media for news purposes, or obtaining  
23          information for verification or settlement of claims by insurance

1 companies is not a resale or use of data for commercial solicitation  
2 purposes, an affidavit shall not be required as a condition for  
3 allowing a member of a newspaper or broadcast news media, or  
4 allowing an agent, or business serving as an agent, to insurance  
5 companies, to examine or obtain a copy of a collision report. Any  
6 agent or business obtaining information for verification or  
7 settlement of claims involving persons named in a report shall  
8 secure an affidavit annually from each client stating the  
9 information provided to the client shall not be used for commercial  
10 solicitation purposes under penalty of law.

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

15 C. As used in this section:

16 1. "Newspaper" means a legal newspaper as defined in Section  
17 106 of Title 25 of the Oklahoma Statutes, provided that the primary  
18 purpose of the newspaper is not the publication of personally  
19 identifying information concerning parties involved in the traffic  
20 collision; and

21 2. "Provider of health services" means any person that provides  
22 health care services to the injured person under a license,  
23 certification or registration issued pursuant to Title 59 of the

1 Oklahoma Statutes, or any hospital or related institution that  
2 offers or provides health care services under a license issued  
3 pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma  
4 Statutes.

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

7 Section 158.2. The operation of ~~such~~ vehicles, motorized  
8 machinery and equipment by the ~~departments described in Section~~  
9 ~~158.1 of this title~~ Department of Central Services, the State  
10 Department of Health, the Department of Public Safety, the  
11 Department of Mental Health and Substance Abuse Services, the  
12 Department of Corrections, and all other state departments and  
13 agencies not otherwise specifically authorized by law, is hereby  
14 declared to be a public governmental function. An action for  
15 damages may be brought against such departments, but the  
16 governmental immunity of such departments shall be waived only to  
17 the extent of the amount of insurance purchased. The departments  
18 shall be liable for negligence only while such insurance is in  
19 force, but in no case in an amount exceeding the limits of the  
20 coverage of any such insurance policy. No attempt shall be made in  
21 the trial of any action brought against any such departments to  
22 suggest the existence of any insurance which covers in whole or in  
23 part any judgment or award which may be rendered in favor of the

1 plaintiff, and if the verdict rendered by the jury exceeds the  
2 limits of the applicable insurance, the court shall reduce the  
3 amount of said judgment or award to a sum equal to the applicable  
4 limits stated in the policy. The insurer may not plead as a defense  
5 in any action involving insurance purchases by the authority of this  
6 ~~Act~~ section the governmental immunity of either the State of  
7 Oklahoma, the State Department of Health, Department of Public  
8 Safety, Department of Mental Health and Substance Abuse Services, or  
9 the ~~Oklahoma State Penitentiary~~ Department of Corrections.

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

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

15 1. "Refueling service" means the service of pumping motor  
16 vehicle fuel into the fuel tank of a motor vehicle;

17 2. "Mobility-impaired driver" means a person with a physical  
18 disability, as defined in Section 15-112 of this title; and

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

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

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

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

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

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

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

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

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

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

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

1 intervals with ~~the Oklahoma Highway Safety Coordinating Committee,~~  
2 the State Fire Marshal, the Oklahoma ~~Crime Commission~~ State Bureau  
3 of Investigation, the State Department of Health, the Department of  
4 Emergency Management and the public utilities in this state  
5 providing telephone service.

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

8 SECTION 9. RECODIFICATION 47 O.S. 2001, Section 11-  
9 1007.1 shall be recodified as Section 15-114 of Title 47 of the  
10 Oklahoma Statutes, unless there is created a duplication in  
11 numbering.

12 SECTION 10. RECODIFICATION 47 O.S. 2001, Section 11-1008  
13 shall be recodified as Section 15-115 of Title 47 of the Oklahoma  
14 Statutes, unless there is created a duplication in numbering.

15 SECTION 11. RECODIFICATION Section 1, Chapter 318,  
16 O.S.L. 2002 (47 O.S. Supp. 2007, Section 1151.2), shall be  
17 recodified as Section 1116.1 of Title 47 of the Oklahoma Statutes,  
18 unless there is created a duplication in numbering.

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-12-08 - DO  
6 PASS, As Coauthored.