

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1384

By: Barrington

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5
6 AS INTRODUCED

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

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23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
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1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 11-702, as
2 last amended by Section 13, Chapter 418, O.S.L. 2004 (47 O.S. Supp.
3 2007, Section 11-702), is amended to read as follows:

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

8 SECTION 2. AMENDATORY 47 O.S. 2001, Section 15-112, as
9 last amended by Section 17, Chapter 326, O.S.L. 2007 (47 O.S. Supp.
10 2007, Section 15-112), is amended to read as follows:

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

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

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

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

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

- 3 a. cannot walk two hundred (200) feet without stopping to
4 rest,
- 5 b. cannot walk without the use of or assistance from a
6 brace, cane, crutch, another person, prosthetic
7 device, wheelchair or other assistance device,
- 8 c. is restricted to such an extent that the person's
9 forced (respiratory) expiratory volume for one (1)
10 second, when measured by spirometry, is less than one
11 (1) liter, or the arterial oxygen tension is less than
12 sixty (60) mm/hg on room air at rest,
- 13 d. must use portable oxygen,
- 14 e. has functional limitations which are classified in
15 severity as Class III or Class IV according to
16 standards set by the American Heart Association,
- 17 f. is severely limited in the person's ability to walk
18 due to an arthritic, neurological or orthopedic
19 condition, or from complications due to pregnancy,
- 20 g. is certified legally blind, or
- 21 h. is missing one or more limbs.

22 B. 1. The Department of Public Safety shall issue a detachable
23 placard indicating physical disability to any person who submits an
24 application on a form furnished by the Department and certified by a

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

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

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

19 1. The placard expires;

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

22 3. The placard is no longer needed by the person to whom the
23 placard was issued for the disability for which the placard was
24

1 originally issued, whereupon such placard shall be returned to the
2 Department.

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

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

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

22 4. On and after January 1, 1998, all placards issued prior to
23 October 31, 1990, shall expire on the last day of the month in which
24 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.

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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)
24 days of the collision or, if the collision results in the death of

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

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

- 8 a. party involved in the collision,
- 9 b. legal representatives of a party involved in the
10 collision,
- 11 c. state, county or city law enforcement agency,
- 12 d. the Department of Transportation or any county or city
13 transportation or road and highway maintenance agency,
- 14 e. licensed insurance agents of a party involved in the
15 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
19 subparagraph e, f or g of this paragraph, to provide
20 claims or underwriting information,
- 21 i. prosecutorial authority,
- 22 j. newspaper as defined in Section 106 of Title 25 of the
23 Oklahoma Statutes,
- 24 k. radio or television broadcaster,

1 1. licensed private investigators employed by a party
2 involved in the collision, or

3 m. provider of health services to a party involved in the
4 collision.

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

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

21 2. As used in this subsection:

22 a. "commercial solicitation" means any attempt to use, or
23 offer for use, information contained in a collision
24 report to solicit any person named in the report, or a

1 relative of the person, or to solicit a professional,
2 business, or commercial relationship. "Commercial
3 solicitation" does not include publication in a
4 newspaper, as defined in Section 106 of Title 25 of
5 the Oklahoma Statutes, or broadcast of information by
6 news media for news purposes, or obtaining information
7 for the purpose of verification or settlement of
8 claims by insurance companies, and

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

14 3. Publication in a newspaper, as defined in Section 106 of
15 Title 25 of the Oklahoma Statutes, or broadcast by news media for
16 news purposes shall not constitute a resale or use of data for trade
17 or commercial solicitation purposes. Because publication by a
18 newspaper, broadcast by news media for news purposes, or obtaining
19 information for verification or settlement of claims by insurance
20 companies is not a resale or use of data for commercial solicitation
21 purposes, an affidavit shall not be required as a condition for
22 allowing a member of a newspaper or broadcast news media, or
23 allowing an agent, or business serving as an agent, to insurance
24 companies, to examine or obtain a copy of a collision report. Any

1 agent or business obtaining information for verification or
2 settlement of claims involving persons named in a report shall
3 secure an affidavit annually from each client stating the
4 information provided to the client shall not be used for commercial
5 solicitation purposes under penalty of law.

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

10 C. As used in this section:

11 1. "Newspaper" means a legal newspaper as defined in Section
12 106 of Title 25 of the Oklahoma Statutes, provided that the primary
13 purpose of the newspaper is not the publication of personally
14 identifying information concerning parties involved in the traffic
15 collision; and

16 2. "Provider of health services" means any person that provides
17 health care services to the injured person under a license,
18 certification or registration issued pursuant to Title 59 of the
19 Oklahoma Statutes, or any hospital or related institution that
20 offers or provides health care services under a license issued
21 pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma
22 Statutes.

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

1 Section 158.2. The operation of ~~such~~ vehicles, motorized
2 machinery and equipment by the ~~departments described in Section~~
3 ~~158.1 of this title~~ Department of Central Services, the State
4 Department of Health, the Department of Public Safety, the
5 Department of Mental Health and Substance Abuse Services, the
6 Department of Corrections, and all other state departments and
7 agencies not otherwise specifically authorized by law, is hereby
8 declared to be a public governmental function. An action for
9 damages may be brought against such departments, but the
10 governmental immunity of such departments shall be waived only to
11 the extent of the amount of insurance purchased. The departments
12 shall be liable for negligence only while such insurance is in
13 force, but in no case in an amount exceeding the limits of the
14 coverage of any such insurance policy. No attempt shall be made in
15 the trial of any action brought against any such departments to
16 suggest the existence of any insurance which covers in whole or in
17 part any judgment or award which may be rendered in favor of the
18 plaintiff, and if the verdict rendered by the jury exceeds the
19 limits of the applicable insurance, the court shall reduce the
20 amount of said judgment or award to a sum equal to the applicable
21 limits stated in the policy. The insurer may not plead as a defense
22 in any action involving insurance purchases by the authority of this
23 ~~Act~~ section the governmental immunity of either the State of
24 Oklahoma, the State Department of Health, Department of Public

1 Safety, Department of Mental Health and Substance Abuse Services, or
2 the ~~Oklahoma State Penitentiary~~ Department of Corrections.

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

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

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

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

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

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

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

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

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

5 3. A disabled veterans license plate with the international
6 accessibility symbol issued pursuant to the provisions of Section
7 1135.2 of this title.

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

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

15 D. Only those motor vehicle service stations which voluntarily
16 participate in the refueling service program established in ~~Sections~~
17 ~~1601 through 1604~~ of this title section and which offer gasoline or
18 other motor vehicle fuel for sale to the public shall be required to
19 comply with the provisions of this section.

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

23 Section 2805. In order to insure that proper preparation and
24 implementation of such systems can be accomplished as provided in

1 Section 2803 of this title, the Department of Public Safety may
2 develop an overall plan prior to development of any system and shall
3 coordinate the implementation of systems to be established pursuant
4 to the provisions of ~~this act~~ Section 2803 of this title. Any such
5 plan shall contain an estimate of the costs of installing alternate
6 911 systems and an estimate of the first year's additional operating
7 expenses, if any. The Department may formulate a plan by which it
8 and the public agencies and public safety agencies involved may
9 share proportionately the costs of any system and method from their
10 current funds. The Department may aid such agencies in the
11 formulation of concepts, methods and procedures which will improve
12 the operation of systems and which will increase cooperation between
13 public safety agencies. The Department may consult at regular
14 intervals with ~~the Oklahoma Highway Safety Coordinating Committee,~~
15 the State Fire Marshal, the Oklahoma ~~Crime Commission~~ State Bureau
16 of Investigation, the State Department of Health, the Department of
17 Emergency Management and the public utilities in this state
18 providing telephone service.

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

21 SECTION 9. RECODIFICATION 47 O.S. 2001, Section 11-
22 1007.1 shall be recodified as Section 15-114 of Title 47 of the
23 Oklahoma Statutes, unless there is created a duplication in
24 numbering.

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

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

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

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

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