STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 2290 By: Lamb of the Senate

and

Carey of the House

COMMITTEE SUBSTITUTE

An Act relating to public safety; amending 47 O.S. 2001, Sections 2-105, as last amended by Section 1, Chapter 310, O.S.L. 2009, 2-105.6, as last amended by Section 3, Chapter 83, 2nd Extraordinary Session, O.S.L. 2006, and 6-201, as last amended by Section 5, Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2009, Sections 2-105, 2-106.5 and 6-201), which relate to the Oklahoma Highway Patrol; changing names of certain divisions; deleting language relating to the Lake Patrol Division; modifying age requirements for commissioned officer positions; amending 63 O.S. 2001, Section 4205, which relates to water events; changing name of certain division; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-105, as last amended by Section 1, Chapter 310, O.S.L. 2009 (47 O.S. Supp. 2009, Section 2-105), is amended to read as follows:

Section 2-105. A. The Commissioner of Public Safety, subject to the Oklahoma Personnel Act, shall appoint:

1. A Chief of the Oklahoma Highway Patrol Division with the rank of Colonel, Deputy Chiefs of the Oklahoma Highway Patrol Division with the rank of Lieutenant Colonel, and subordinate officers and employees of the Oklahoma Highway Patrol Division, including Majors, Captains, Lieutenants, and Highway Patrolmen with the rank of Trooper, who shall comprise the Oklahoma Highway Patrol Division of the Department of Public Safety; provided, any officer appointed to a commissioned position prescribed in this paragraph which is unclassified pursuant to Section 840-5.5 of Title 74 of the Oklahoma Statutes shall have a right of return to the highest previously held classified commissioned position within the Highway Patrol Division of the Department of Public Safety without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

2. A Captain, Lieutenants, and Patrolmen who shall comprise the ~~Lake Patrol~~ Marine Enforcement Section of the Oklahoma Highway Patrol Division of the Department of Public Safety;

3. A Captain, Lieutenants, and Patrolmen, who shall comprise the Capitol Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety; and

4. A Director of the Communications Division with the rank of Captain, Communications Coordinators with the rank of First Lieutenant, Communications Superintendents with the rank of Second Lieutenant, Communications Supervisors with the rank of Sergeant,

Communications Dispatchers, Radio Technicians and Tower Maintenance Officers who shall comprise the Communications Division of the Department of Public Safety.

B. 1. The Commissioner, when appointing commissioned officers and employees to the positions set out in subsection A of this section, shall determine, in consultation with the Administrator of the Office of Personnel Management, minimum qualifications and shall select such officers and employees only after examinations to determine their physical and mental qualifications for such positions. The content of the examinations shall be prescribed by the Commissioner, and all such appointees shall satisfactorily complete a course of training in operations and procedures as prescribed by the Commissioner.

2. No person shall be appointed to any position set out in subsection A of this section unless the person is a citizen of the United States of America, of good moral character, and:

a. for commissioned officer positions, shall be at least ~~twenty one (21)~~ twenty-three (23) years of age but less than ~~forty-three (43)~~ forty-six (46) years of age, and shall possess:

(1) an associate's degree or a minimum of sixty-two (62) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of

Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions, and

(2) for any person appointed to the Oklahoma Highway Patrol Division on or after July 1, 2012:

(a) a bachelor’s degree from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions, or

(b) an associate's degree or a minimum of sixty-two (62) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions, and:

i. at least two (2) years' experience as a law enforcement officer certified by the Council on Law Enforcement Education and Training (C.L.E.E.T.) or by the equivalent state agency in

another state or by any law enforcement agency of the federal government, or

ii. at least two (2) years of honorable military service in an active or reserve component of the United States Armed Forces.

Provided, such years of experience or service shall have been consecutive and shall have been completed no more than two (2) years prior to application for appointment, or

b. for any such position in the Communications Division, a person shall be at least twenty (20) years of age and shall possess a high school diploma or General Educational Development equivalency certificate; shall possess either six (6) months of previous experience as a dispatcher or fifteen (15) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions.

3. No commissioned officer of the Department shall, while in such position, be a candidate for any political office or take part in or contribute any money or other thing of value, directly or

indirectly, to any political campaign or to any candidate for public office. Anyone convicted of violating the provisions of this paragraph shall be guilty of a misdemeanor and shall be punished as provided by law.

4. The Commissioner or any employee of the Department shall not be a candidate for any political office, or in any way be active or participate in any political contest of any Primary, General, or Special Election, except to cast a ballot. No commissioned officer of the Department, while in the performance of the officer's assigned duty of providing security and protection, shall be considered as participating in a political campaign. The provisions of this paragraph shall not be construed to preclude a commissioned officer of the Oklahoma Highway Patrol Division of the Department of Public Safety from being a candidate for a position on a local board of education.

5. Drunkenness or being under the influence of intoxicating substances shall be sufficient grounds for the removal of any commissioned officer of the Department, in and by the manner provided for in this section.

C. 1. Upon initial appointment to the position of Cadet Highway Patrolman or Probationary Communications Dispatcher, the appointed employee shall be required to serve an initial probationary period of twelve (12) months. The Commissioner may extend the probationary period for up to three (3) additional months

provided that the employee and the Office of Personnel Management are notified in writing as to such action and the reasons therefor. During such probationary period, the employee may be terminated at any time and for any reason at the discretion of the Commissioner. Retention in the service after expiration of the initial probationary period shall entitle such employee to be classified as a permanent employee and the employee shall be so classified. No permanent employee may be discharged or removed except as provided for in this section.

2. A commissioned officer of the Oklahoma Highway Patrol Division may be promoted during the initial probationary period if such officer satisfactorily completes all training requirements prescribed by the Commissioner.

D. 1. No permanent employee, as provided for in this section, who is a commissioned officer of the Department, may be suspended without pay or dismissed unless the employee has been notified in writing by the Commissioner of such intended action and the reasons therefor. No such notice shall be given by the Commissioner unless sworn charges or statements have been obtained to justify the action.

2. Whenever such charges are preferred, the Commissioner may suspend the accused pending the hearing and final determination of such charges. If the charges are not sustained in whole or in part, the accused shall be entitled to pay during the period of such

suspension. If the charges are sustained in whole or in part, the accused shall not receive any pay for the period of such suspension.

3. Commissioned officers of the Department of Public Safety are not entitled to appeal intra-agency transfer to the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act unless transfer is in violation of Section 840-2.5 or 840-2.9 of Title 74 of the Oklahoma Statutes.

4. The Department of Public Safety shall follow the uniform grievance procedure established and adopted by the Office of Personnel Management for permanent classified employees, except for those employees who are commissioned officers of the Department. The Department of Public Safety shall establish and adopt a proprietary grievance procedure for commissioned officers of the Department which is otherwise in compliance with the provisions of Section 840-6.2 of Title 74 of the Oklahoma Statutes.

E. 1. The Commissioner is hereby authorized to purchase and issue uniforms and necessary equipment for all commissioned officers of the Highway Patrol Division of the Department. All uniforms and equipment shall be used only in the performance of the official duties of such officers and shall remain the property of the Department, except as provided in Section 2-150 of this title.

2. Each commissioned officer of the Highway Patrol Division of the Department of Public Safety shall be entitled to reimbursement of expenses pursuant to the State Travel Reimbursement Act while

away from the assigned area of the officer as designated by the Chief of the Oklahoma Highway Patrol Division, when such expense is incurred in the service of the state.

F. 1. The positions with the rank of Colonel and Lieutenant Colonel of the Oklahoma Highway Patrol Division shall be filled from the body of commissioned officers of the Oklahoma Highway Patrol Division and appointment to said position shall be based on qualifications, previous record as a commissioned officer of the Oklahoma Highway Patrol Division, length of service, years of experience within the Oklahoma Highway Patrol Division or other service as prescribed in this subsection, and efficiency of service performed.

2. In addition to the requirements of paragraph 1 of this subsection, the position of Chief of the Oklahoma Highway Patrol Division shall be based on one of the following:

a. one (1) year of experience in any combination:

(1) as Commissioner of Public Safety,

(2) as Assistant Commissioner of Public Safety, or

(3) as Assistant Chief,

b. two (2) years of experience in any combination:

(1) as Deputy Chief or higher rank, or

(2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Major or higher rank,

c. four (4) years of experience in any combination:

(1) as Major or higher rank, or

(2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Captain or higher rank, or

d. six (6) years of experience in any combination:

(1) as Captain or higher rank, or

(2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as First Lieutenant or higher rank.

3. In addition to the requirements of paragraph 1 of this subsection, the position of Deputy Chief of the Oklahoma Highway Patrol Division shall be based on one of the following:

a. one (1) year of experience in any combination:

(1) as Commissioner of Public Safety,

(2) as Assistant Commissioner of Public Safety, or

(3) as Colonel,

b. two (2) years of experience in any combination:

(1) as Major or higher rank, or

(2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Captain or higher rank, or

c. four (4) years of experience in any combination:

(1) as Captain or higher rank, or

(2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Highway Patrol First Lieutenant or higher rank.

G. The Commissioner of Public Safety is hereby authorized to send employees of the Department of Public Safety to schools such as Northwestern University Center for Public Safety, Southern Police Institute, the FBI National Academy, the Institute of Police Technology and Management, or to any other schools of similar training which would be conducive to improving the efficiency of the Oklahoma Highway Patrol Division and the Department of Public Safety. While an employee is attending a school, the Commissioner is authorized to permit the employee to use a state-owned vehicle and to use a fuel-purchasing card for any expenses related to the operation of the vehicle. In addition, while an employee is attending the FBI National Academy, a one-time expense allowance of Two Thousand Dollars ($2,000.00) for uniforms, fees, travel, room and board, and other related expenses shall be paid to the employee by the Department; provided, the employee shall not be further compensated through the State Travel Reimbursement Act, and, if any other agency reimburses the employee for any expenses, the reimbursement shall be given to the Department. All purchases made by the employee with the expense allowance shall be considered property of the employee.

H. 1. Any former commissioned officer of the Department whose separation from the Department was at such officer's own request and not a result of such officer's own actions contrary to the policy of the Department or was not as a result of the retirement of that officer from the Department may make application for reinstatement as a commissioned officer of the division or section of the Department in which such officer was previously employed, provided such reinstated officer will be able to complete twenty (20) years of credited service by the time the reinstated officer reaches sixty-two (62) years of age. The Commissioner may waive the requirements of possessing the number of semester hours or degree as required in subsection B of this section for any former commissioned officer making application for reinstatement as a commissioned officer of the Department. The Commissioner may require the applicant for reinstatement to attend selected courses of instruction, as prescribed by the Commissioner.

2. In the event of future hostilities wherein the Congress of the United States declares this nation in a state of war with a foreign nation, including military service brought about by the Vietnam War, any period of military service served by a commissioned officer of the Department shall be considered as continued service with such Department, provided such commissioned officer returns to duty with the Department within sixty (60) days after release from military service.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-105.6, as last amended by Section 3, Chapter 83, 2nd Extraordinary Session, O.S.L. 2006 (47 O.S. Supp. 2009, Section 2-105.6), is amended to read as follows:

Section 2-105.6. A. There is hereby created within the Oklahoma Highway Patrol Division of the Department of Public Safety a ~~Lake Patrol~~ Marine Enforcement Section which shall consist of such employees as may be necessary to enforce the provisions of Section 4001 et seq., Section 4101 et seq., and Section 4200 et seq. of Title 63 of the Oklahoma Statutes. All commissioned officers of the ~~Lake Patrol~~ Marine Enforcement Section as designated by the Commissioner shall have the authority to stop and board any vessel subject to Section 4001 et seq. of Title 63 of the Oklahoma Statutes and make any necessary arrest for violations of Section 4001 et seq. of Title 63 of the Oklahoma Statutes or the rules promulgated by the Department of Public Safety or the Department of Wildlife Conservation or take any other action within their lawful authority. Any statutory references to the Oklahoma Lake Patrol Division or the Lake Patrol Section of the Oklahoma Highway Patrol Division shall mean the ~~Lake Patrol~~ Marine Enforcement Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

B. ~~Any officer of the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety may request reclassification to the equivalent lateral position, rank~~

~~and salary within the Oklahoma Highway Patrol Division and shall be reclassified to such position if the officer:~~

~~1. Meets the requirements of paragraph 2 of subsection B of Section 2-105 of this title. Provided, such officer shall be exempt from the maximum age limitation;~~

~~2. Satisfactorily completes a course of training as prescribed by the Commissioner; and~~

~~3. Serves a twelve month probationary period which shall commence upon entering into the course of training required by paragraph 2 of this subsection.~~

~~C.~~ All commissioned officers of the ~~Lake Patrol~~ Marine Enforcement Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall have, in addition to their primary duty as prescribed in subsection A of this section, a secondary duty to enforce all state statutes, to make arrests for violations and to perform other duties as prescribed by the Commissioner.

~~D. 1. a. The annual salaries for the commissioned officers within the Lake Patrol Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall be in accordance and conformity with the following salary schedule, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by~~

~~Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title:~~

~~Patrol Captain~~	~~$57,243.00~~
~~Patrol Lieutenant~~	~~$53,306.00~~
~~Patrolman~~	
~~Step 6~~	~~$45,881.00~~
~~Step 7~~	~~$50,087.00~~

~~b. Each Highway Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the next higher step of the salary schedule provided for in subparagraph a of this paragraph if the Patrolman, within the preceding twelve-month period:~~

~~(1) has achieved a satisfactory Performance Rating Score,~~

~~(2) has not received any disciplinary action which has resulted in any suspension from the Department for a period of ten (10) or more days, and~~

~~(3) has not received any disciplinary action which has resulted in demotion.~~

~~If the number of completed years of service on the anniversary date of the Patrolman is or exceeds seven (7) years, the Patrolman shall~~

~~be assigned to, and the salary of the Patrolman adjusted to, Step 7 of the salary schedule. Effective January 1, 2007, the~~

C. The annual salaries for the commissioned officers within the ~~Lake Patrol~~ Marine Enforcement Section of the Oklahoma Highway Patrol Division of the Department of Public Safety shall be in accordance and conformity with the following salary schedule, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title:

Patrol Captain	$69,004.00
Patrol Lieutenant	$62,731.00
Patrolman	$57,028.00

~~E.~~ D. The provisions of this section shall supersede all existing laws covering the salaries for the commissioned Patrolmen in the ~~Lake Patrol~~ Marine Enforcement Section of the Oklahoma Highway Patrol Division of the Department of Public Safety.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 6-201, as last amended by Section 5, Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2009, Section 6-201), is amended to read as follows:

Section 6-201. A. The Department of Public Safety is hereby authorized to cancel or deny any person's driving privilege upon determining that the person:

1. Is not entitled to a driver license or identification card issued to the person; or

2. Failed to give the required or correct information in the application.

Upon such cancellation or denial, the person to whom the license or card was issued shall surrender the license or card so canceled to the Department. The person may apply for a valid driver license or identification card, if the person is otherwise eligible. Any person whose driving privilege is canceled or denied under the provisions of this subsection shall have the right to an appeal as provided in Section 6-211 of this title.

B. Upon determination by the Department that any person:

1. Used fraudulent information to apply for or obtain a driver license or identification card;

2. Committed or aided another person in the commission of any act provided in subparagraph b, c, e, g, or h of paragraph 1 of Section 6-301 of this title; or

3. Committed or aided another person in the commission of any act provided in subparagraph a, b, c, d, e, or f of paragraph 2 of Section 6-301 of this title, the Department shall revoke the person's driving privilege for a period of sixty (60) days for a first determination. For a second or subsequent determination by the Department under paragraph 1, 2 or 3 of this subsection, the person's driving privilege shall be revoked for a period of six (6)

months. Such periods shall not be subject to modification. Upon such revocation, the person to whom the license or card was issued shall surrender the license or card to the Department. The person may apply for a valid identification card, if the person is otherwise eligible.

C. A determination, as provided for in subsection B of this section, shall include:

1. A conviction in any court, when the conviction becomes final; or

2. The findings of an investigation by the ~~Driver License Fraud~~ Identity Verification Unit ~~of~~, the Oklahoma Highway Patrol Division ~~of the Department~~, or a designee of the Commissioner of Public Safety.

D. Any person whose driving privilege is revoked under the provisions of subsection B of this section may be required to obtain a release from the ~~Driver License Fraud~~ Identity Verification Unit of the Department, the Oklahoma Highway Patrol Division, or a designee of the Commissioner of Public Safety before being considered for reinstatement of driving privileges.

E. Any person whose driving privilege is revoked under the provisions of subsection B of this section shall have the right to an appeal as provided in Section 6-211 of this title.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 4205, is amended to read as follows:

Section 4205. A. The United States Army Corps of Engineers, the Oklahoma Department of Tourism and Recreation, and the Grand River Dam Authority may authorize the holding of sanctioned events on any waters of this state under their jurisdiction. ~~Said~~ The administering entities shall promulgate rules pursuant to Article 1 of the Oklahoma Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, concerning the safety of other vessels and persons thereon, both observers and participants. No sanctioned event shall be held without a written permit from ~~said~~ the administering entity, and ~~said~~ such written permit shall be available for inspection at all times during the event.

B. Whenever a sanctioned event is proposed to be held, the administering entity shall, upon granting approval to hold such event and at least ten (10) days prior thereto, file a notification in writing of ~~said~~ the event with the ~~Lake Patrol~~ Marine Enforcement Section of the Highway Patrol Division of the Department of Public Safety. Such notification shall set forth the date, time, location where the sanctioned event is proposed to be held, the type of event and the person in charge of ~~said~~ the event.

C. No person shall hold or give permission to hold any sanctioned event in an unsafe manner or under unsafe environmental conditions so as to endanger life or property. Should any duly authorized peace officer of this state determine within their jurisdiction that such event is being held or conducted in an unsafe

manner or under unsafe environmental conditions, such officer shall have the authority to cancel or terminate ~~said~~ the event.

SECTION 5. This act shall become effective November 1, 2010.

52-2-10624 CJB 04/09/10