

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 2290

6 By: Lamb of the Senate

7 and

8 Carey of the House

9 SUBCOMMITTEE RECOMMENDATION

10 An Act relating to public safety; amending 47 O.S.
11 2001, Sections 2-105, as last amended by Section 1,
12 Chapter 310, O.S.L. 2009, 2-105.6, as last amended by
13 Section 3, Chapter 83, 2nd Extraordinary Session,
14 O.S.L. 2006, and 6-201, as last amended by Section 5,
15 Chapter 149, O.S.L. 2004 (47 O.S. Supp. 2009,
16 Sections 2-105, 2-106.5 and 6-201), which relate to
17 the Oklahoma Highway Patrol; changing names of
18 certain divisions; deleting language relating to the
19 Lake Patrol Division; modifying age requirements for
20 commissioned officer positions; amending 63 O.S.
21 2001, Section 4205, which relates to water events;
22 changing name of certain division; and providing an
23 effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (1) as Commissioner of Public Safety,

18 (2) as Assistant Commissioner of Public Safety, or

19 (3) as Assistant Chief,

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

21 (1) as Deputy Chief or higher rank, or

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

- 1 c. four (4) years of experience in any combination:
2 (1) as Major or higher rank, or
3 (2) if the experience was prior to ~~the effective date~~
4 ~~of this act~~ April 21, 2006, as Captain or higher
5 rank, or
- 6 d. six (6) years of experience in any combination:
7 (1) as Captain or higher rank, or
8 (2) if the experience was prior to ~~the effective date~~
9 ~~of this act~~ April 21, 2006, as First Lieutenant
10 or higher rank.

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

- 14 a. one (1) year of experience in any combination:
15 (1) as Commissioner of Public Safety,
16 (2) as Assistant Commissioner of Public Safety, or
17 (3) as Colonel,
- 18 b. two (2) years of experience in any combination:
19 (1) as Major or higher rank, or
20 (2) if the experience was prior to ~~the effective date~~
21 ~~of this act~~ April 21, 2006, as Captain or higher
22 rank, or
- 23 c. four (4) years of experience in any combination:
24 (1) as Captain or higher rank, or

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

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

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

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

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

5 Section 2-105.6. A. There is hereby created within the
6 Oklahoma Highway Patrol Division of the Department of Public Safety
7 a ~~Lake Patrol~~ Marine Enforcement Section which shall consist of such
8 employees as may be necessary to enforce the provisions of Section
9 4001 et seq., Section 4101 et seq., and Section 4200 et seq. of
10 Title 63 of the Oklahoma Statutes. All commissioned officers of the
11 ~~Lake Patrol~~ Marine Enforcement Section as designated by the
12 Commissioner shall have the authority to stop and board any vessel
13 subject to Section 4001 et seq. of Title 63 of the Oklahoma Statutes
14 and make any necessary arrest for violations of Section 4001 et seq.
15 of Title 63 of the Oklahoma Statutes or the rules promulgated by the
16 Department of Public Safety or the Department of Wildlife
17 Conservation or take any other action within their lawful authority.
18 Any statutory references to the Oklahoma Lake Patrol Division or the
19 Lake Patrol Section of the Oklahoma Highway Patrol Division shall
20 mean the ~~Lake Patrol~~ Marine Enforcement Section of the Oklahoma
21 Highway Patrol Division of the Department of Public Safety.

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

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

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

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

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

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

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

24

~~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~~

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

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

11	Patrol Captain	\$69,004.00
12	Patrol Lieutenant	\$62,731.00
13	Patrolman	\$57,028.00

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

18 SECTION 3. AMENDATORY 47 O.S. 2001, Section 6-201, as
19 last amended by Section 5, Chapter 149, O.S.L. 2004 (47 O.S. Supp.
20 2009, Section 6-201), is amended to read as follows:

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

24

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

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

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

12 B. Upon determination by the Department that any person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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