

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SUBCOMMITTEE
4 RECOMMENDATION

5 FOR ENGROSSED
6 SENATE BILL NO. 1170

By: Leftwich of the Senate

and

Christian of the House

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10 SUBCOMMITTEE RECOMMENDATION

11 (motor vehicles - driving without license and

12 personal injury - penalties - effective date -

13 emergency)

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

18 SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-105, as
19 last amended by Section 6, Chapter 62, O.S.L. 2007 (47 O.S. Supp.
20 2008, Section 2-105), is amended to read as follows:

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

23 1. A Chief of the Oklahoma Highway Patrol Division with the
24 rank of Colonel, Deputy Chiefs of the Oklahoma Highway Patrol

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

13 2. A Captain, Lieutenants, and Patrolmen who shall comprise the
14 Lake Patrol Section of the Oklahoma Highway Patrol Division of the
15 Department of Public Safety;

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

19 4. A Director of the Communications Division with the rank of
20 Captain, Communications Coordinators with the rank of First
21 Lieutenant, Communications Superintendents with the rank of Second
22 Lieutenant, Communications Supervisors with the rank of Sergeant,
23 Communications Dispatchers, Radio Technicians and Tower Maintenance
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1 Officers who shall comprise the Communications Division of the
2 Department of Public Safety.

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

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

16 a. for commissioned officer positions, shall be at least
17 twenty-one (21) years of age but less than forty-three
18 (43) years of age, and shall possess+
19 ~~(1) an associate's degree or~~ a minimum of sixty-two
20 (62) successfully completed semester hours from a
21 college or university which is recognized by and
22 accepted by the American Association of
23 Collegiate Registrars and Admissions Officers and
24

1 whose hours are transferable between such
2 recognized institutions, and

3 ~~(2) for any person appointed to the Oklahoma Highway
4 Patrol Division on or after July 1, 2010:~~

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

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

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

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, as Major or higher rank,

24 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, 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, 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, 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, as Highway Patrol First Lieutenant or higher rank.

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

21 H. 1. Any former commissioned officer of the Department whose
22 separation from the Department was at such officer's own request and
23 not a result of such officer's own actions contrary to the policy of
24 the Department or was not as a result of the retirement of that

1 officer from the Department may make application for reinstatement
2 as a commissioned officer of the division or section of the
3 Department in which such officer was previously employed, provided
4 such reinstated officer will be able to complete twenty (20) years
5 of credited service by the time the reinstated officer reaches
6 sixty-two (62) years of age. The Commissioner may waive the
7 requirements of possessing the number of semester hours or degree as
8 required in subsection B of this section for any former commissioned
9 officer making application for reinstatement as a commissioned
10 officer of the Department. The Commissioner may require the
11 applicant for reinstatement to attend selected courses of
12 instruction, as prescribed by the Commissioner.

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

21 SECTION 2. AMENDATORY Section 5, Chapter 176, O.S.L. 2005
22 (74 O.S. Supp. 2008, Section 840-2.30), is amended to read as
23 follows:
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1 Section 840-2.30 A. It is the policy of the State of Oklahoma
2 to be accountable to state taxpayers for the expenditure of public
3 funds. To this end, all state employees shall be paid according to
4 a pay system established pursuant to the principles of public
5 accountability that prohibits payment to any state employee for time
6 not worked unless the time not worked is covered by available paid
7 leave. Violation of this provision may result in disciplinary
8 action and criminal prosecution under Oklahoma law.

9 B. 1. The Department of Public Safety shall be exempt from the
10 provisions of subsection A of this section as it relates to holiday
11 leave for employees of the Department of Public Safety appointed by
12 the Commissioner of Public Safety pursuant to subsection A of
13 Section 2-105 of Title 47 of the Oklahoma Statutes.

14 2. Notwithstanding the dates to be observed as holidays in
15 2009, as specified and approved by the Governor pursuant to Section
16 82.1 of Title 25 of the Oklahoma Statutes, on the effective date of
17 this act the Department of Public Safety shall schedule and grant
18 holiday leave for employees prescribed in paragraph 1 of this
19 subsection as is necessary to appropriately perform the functions of
20 the Oklahoma Highway Patrol Division of the Department, regardless
21 of whether the holiday leave is granted on, before, or after the
22 actual date of the holiday specified and approved by the Governor.

23 3. For the calendar year beginning January 1, 2010, and for
24 each calendar year thereafter, all leave hours for the number of

1 holidays to be observed in the calendar year, as specified and
2 approved by the Governor pursuant to Section 82.1 of Title 25 of the
3 Oklahoma Statutes, shall accrue in total on January 1 of the
4 calendar year for each employee prescribed in paragraph 1 of this
5 subsection. Notwithstanding the dates to be observed as holidays in
6 the calendar year, the Department of Public Safety shall schedule
7 and grant holiday leave for the calendar year for employees
8 prescribed in paragraph 1 of this subsection as is deemed necessary
9 to appropriately perform the functions of the Oklahoma Highway
10 Patrol Division of the Department, regardless of whether the holiday
11 leave is granted on, before, or after the actual date of the holiday
12 specified and approved by the Governor.

13 4. The Department shall schedule and grant for each employee
14 specified in paragraph 1 of this subsection and the employee shall
15 use holiday leave, as specified in this subsection, in eight-hour
16 increments or multiples of eight-hour increments; provided:

17 a. the Department shall not schedule and grant for any
18 employee and the employee shall not use more holiday
19 leave in any calendar year than is specified and
20 approved by the Governor for that calendar year,
21 pursuant to Section 82.1 of Title 25 of the Oklahoma
22 Statutes, and

23 b. the Department shall schedule and grant for each
24 employee and the employee shall use all holiday leave

1 during the calendar year in which it is specified and
2 approved by the Governor. Holiday leave shall not
3 carry over from one (1) calendar year to the next
4 calendar year.

5 5. If an employee prescribed in paragraph 1 of this subsection
6 leaves the service of the state, and the Department has scheduled
7 and granted the employee and the employee has used holiday leave
8 which is in excess of the number of holidays left in the calendar
9 year during which the employee leaves the service of the state, the
10 Department shall deduct the number of excess hours of holiday leave
11 used by the employee from the accrued annual leave of the employee.

12 SECTION 3. This act shall become effective July 1, 2009.

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

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18 52-1-7643 GRS 04/02/09
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