

THE HOUSE OF REPRESENTATIVES
Monday, March 1, 2010

Committee Substitute for
House Bill No. 2325

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2325 - By: SHOEMAKE of the House.

An Act relating to motor vehicles; amending 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), which relates to the Highway Patrol Division of the Department of Public Safety; increasing age limitations for commissioned officer positions; and providing an effective date.

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

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

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

6 1. A Chief of the Oklahoma Highway Patrol Division with the rank of Colonel,
7 Deputy Chiefs of the Oklahoma Highway Patrol Division with the rank of Lieutenant
8 Colonel, and subordinate officers and employees of the Oklahoma Highway Patrol
9 Division, including Majors, Captains, Lieutenants, and Highway Patrolmen with the
10 rank of Trooper, who shall comprise the Oklahoma Highway Patrol Division of the
11 Department of Public Safety; provided, any officer appointed to a commissioned position

1 prescribed in this paragraph which is unclassified pursuant to Section 840-5.5 of Title 74
2 of the Oklahoma Statutes shall have a right of return to the highest previously held
3 classified commissioned position within the Highway Patrol Division of the Department
4 of Public Safety without any loss of rights, privileges or benefits immediately upon
5 completion of the duties in the unclassified commissioned position;

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

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

10 and

11 4. A Director of the Communications Division with the rank of Captain,
12 Communications Coordinators with the rank of First Lieutenant, Communications
13 Superintendents with the rank of Second Lieutenant, Communications Supervisors with
14 the rank of Sergeant, Communications Dispatchers, Radio Technicians and Tower
15 Maintenance Officers who shall comprise the Communications Division of the
16 Department of Public Safety.

17 B. 1. The Commissioner, when appointing commissioned officers and employees to
18 the positions set out in subsection A of this section, shall determine, in consultation with
19 the Administrator of the Office of Personnel Management, minimum qualifications and
20 shall select such officers and employees only after examinations to determine their
21 physical and mental qualifications for such positions. The content of the examinations
22 shall be prescribed by the Commissioner, and all such appointees shall satisfactorily

1 complete a course of training in operations and procedures as prescribed by the
2 Commissioner.

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

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

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

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

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

21 (b) an associate's degree or a minimum of sixty-two (62)
22 successfully completed semester hours from a college or

1 university which is recognized by and accepted by the
2 American Association of Collegiate Registrars and
3 Admissions Officers and whose hours are transferable
4 between such recognized institutions, and:

- 5 i. at least two (2) years' experience as a law
6 enforcement officer certified by the Council on Law
7 Enforcement Education and Training (C.L.E.E.T.)
8 or by the equivalent state agency in another state
9 or by any law enforcement agency of the federal
10 government, or
11 ii. at least two (2) years of honorable military service
12 in an active or reserve component of the United
13 States Armed Forces.

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

- 17 b. for any such position in the Communications Division, a person shall
18 be at least twenty (20) years of age and shall possess a high school
19 diploma or General Educational Development equivalency certificate;
20 shall possess either six (6) months of previous experience as a
21 dispatcher or fifteen (15) successfully completed semester hours from a
22 college or university which is recognized by and accepted by the

1 American Association of Collegiate Registrars and Admissions Officers
2 and whose hours are transferable between such recognized
3 institutions.

4 3. No commissioned officer of the Department shall, while in such position, be a
5 candidate for any political office or take part in or contribute any money or other thing of
6 value, directly or indirectly, to any political campaign or to any candidate for public
7 office. Anyone convicted of violating the provisions of this paragraph shall be guilty of a
8 misdemeanor and shall be punished as provided by law.

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

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

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

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

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

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

17 2. Whenever such charges are preferred, the Commissioner may suspend the
18 accused pending the hearing and final determination of such charges. If the charges are
19 not sustained in whole or in part, the accused shall be entitled to pay during the period of
20 such suspension. If the charges are sustained in whole or in part, the accused shall not
21 receive any pay for the period of such suspension.

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

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

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

16 2. Each commissioned officer of the Highway Patrol Division of the Department of
17 Public Safety shall be entitled to reimbursement of expenses pursuant to the State
18 Travel Reimbursement Act while away from the assigned area of the officer as
19 designated by the Chief of the Oklahoma Highway Patrol Division, when such expense is
20 incurred in the service of the state.

21 F. 1. The positions with the rank of Colonel and Lieutenant Colonel of the
22 Oklahoma Highway Patrol Division shall be filled from the body of commissioned officers

1 of the Oklahoma Highway Patrol Division and appointment to said position shall be
2 based on qualifications, previous record as a commissioned officer of the Oklahoma
3 Highway Patrol Division, length of service, years of experience within the Oklahoma
4 Highway Patrol Division or other service as prescribed in this subsection, and efficiency
5 of service performed.

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

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

9 (1) as Commissioner of Public Safety,

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

11 (3) as Assistant Chief,

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

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

14 (2) if the experience was prior to the effective date of this act, as
15 Major or higher rank,

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

17 (1) as Major or higher rank, or

18 (2) if the experience was prior to the effective date of this act, as
19 Captain or higher rank, or

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

21 (1) as Captain or higher rank, or

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

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

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

7 (1) as Commissioner of Public Safety,

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

9 (3) as Colonel,

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

11 (1) as Major or higher rank, or

12 (2) if the experience was prior to the effective date of this act, as
13 Captain or higher rank, or

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

15 (1) as Captain or higher rank, or

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

18 G. The Commissioner of Public Safety is hereby authorized to send employees of
19 the Department of Public Safety to schools such as Northwestern University Center for
20 Public Safety, Southern Police Institute, the FBI National Academy, the Institute of
21 Police Technology and Management, or to any other schools of similar training which
22 would be conducive to improving the efficiency of the Oklahoma Highway Patrol Division

1 and the Department of Public Safety. While an employee is attending a school, the
2 Commissioner is authorized to permit the employee to use a state-owned vehicle and to
3 use a fuel-purchasing card for any expenses related to the operation of the vehicle. In
4 addition, while an employee is attending the FBI National Academy, a one-time expense
5 allowance of Two Thousand Dollars (\$2,000.00) for uniforms, fees, travel, room and
6 board, and other related expenses shall be paid to the employee by the Department;
7 provided, the employee shall not be further compensated through the State Travel
8 Reimbursement Act, and, if any other agency reimburses the employee for any expenses,
9 the reimbursement shall be given to the Department. All purchases made by the
10 employee with the expense allowance shall be considered property of the employee.

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

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

7 SECTION 2. This act shall become effective November 1, 2010.

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
9 dated 02-25-10 - DO PASS, As Amended.