

EHB 2325

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

THE STATE SENATE
Wednesday, March 24, 2010

ENGROSSED

House Bill No. 2325

ENGROSSED HOUSE BILL NO. 2325 - By: Shoemake, Roan, Tibbs and Cannaday of the House and Ballenger of the Senate.

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:

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

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

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

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

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

20 B. 1. The Commissioner, when appointing commissioned officers
21 and employees to the positions set out in subsection A of this
22 section, shall determine, in consultation with the Administrator of
23 the Office of Personnel Management, minimum qualifications and shall

1 select such officers and employees only after examinations to
2 determine their physical and mental qualifications for such
3 positions. The content of the examinations shall be prescribed by
4 the Commissioner, and all such appointees shall satisfactorily
5 complete a course of training in operations and procedures as
6 prescribed by the Commissioner.

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

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

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

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

- 1 (a) a bachelor's degree from a college or
2 university which is recognized by and
3 accepted by the American Association of
4 Collegiate Registrars and Admissions
5 Officers and whose hours are transferable
6 between such recognized institutions, or
7 (b) an associate's degree or a minimum of sixty-
8 two (62) successfully completed semester
9 hours from a college or university which is
10 recognized by and accepted by the American
11 Association of Collegiate Registrars and
12 Admissions Officers and whose hours are
13 transferable between such recognized
14 institutions, and:
15 i. at least two (2) years' experience as a
16 law enforcement officer certified by
17 the Council on Law Enforcement
18 Education and Training (C.L.E.E.T.) or
19 by the equivalent state agency in
20 another state or by any law enforcement
21 agency of the federal government, or
22 ii. at least two (2) years of honorable
23 military service in an active or

1 reserve component of the United States
2 Armed Forces.

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

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

18 3. No commissioned officer of the Department shall, while in
19 such position, be a candidate for any political office or take part
20 in or contribute any money or other thing of value, directly or
21 indirectly, to any political campaign or to any candidate for public
22 office. Anyone convicted of violating the provisions of this

1 paragraph shall be guilty of a misdemeanor and shall be punished as
2 provided by law.

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

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

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

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

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

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

20 2. Whenever such charges are preferred, the Commissioner may
21 suspend the accused pending the hearing and final determination of
22 such charges. If the charges are not sustained in whole or in part,
23 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

1 of expenses pursuant to the State Travel Reimbursement Act while
2 away from the assigned area of the officer as designated by the
3 Chief of the Oklahoma Highway Patrol Division, when such expense is
4 incurred in the service of the state.

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

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

- 17 a. one (1) year of experience in any combination:
18 (1) as Commissioner of Public Safety,
19 (2) as Assistant Commissioner of Public Safety, or
20 (3) as Assistant Chief,
21 b. two (2) years of experience in any combination:
22 (1) as Deputy Chief or higher rank, or

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

1 (2) if the experience was prior to the effective date
2 of this act, as Highway Patrol First Lieutenant
3 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

1 duty with the Department within sixty (60) days after release from
2 military service.

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

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY & HOMELAND SECURITY,
5 dated 3-23-10 - DO PASS, As Coauthored.