

1 ENGROSSED HOUSE
2 BILL NO. 1676

By: Billy, Roan and Cooksey of
the House

3 and

4 Nichols of the Senate
5
6

7 An Act relating to public safety; amending 27A O.S.
8 2001, Section 2-9-104, which relates to the Radiation
9 Management Act; modifying exception to radiation
10 safety rules; amending 47 O.S. 2001, Section 2-105.4,
11 as last amended by Section 2, Chapter 83, 2nd
12 Extraordinary Session, O.S.L. 2006, Section 1,
13 Chapter 319, O.S.L. 2008, Sections 2-122, as amended
14 by Section 8, Chapter 397, O.S.L. 2002, 2-143, as
15 amended by Section 7, Chapter 461, O.S.L. 2003 and
16 Section 14, Chapter 397, O.S.L. 2002, as amended by
17 Section 2, Chapter 361, O.S.L. 2005 (47 O.S. Supp.
18 2010, Sections 2-105.4, 2-108.1, 2-122, 2-143 and 2-
19 144.1), which relate to salaries and responsibilities
20 of the Department of Public Safety; modifying salary
21 schedule provisions; authorizing use of interlocal
22 agreements with certain state educational
23 institutions; making agreements exempt from oversight
24 by certain agency; authorizing Department of Public
Safety to receive funds from certain sources;
changing name of certain training facility; modifying
purpose for certain revolving fund; amending 47 O.S.
2001, Section 10-113, which relates to accident
report forms; requiring Department of Public Safety
to make certain forms available; amending 47 O.S.
2001, Section 11-1112, as last amended by Section 26,
Chapter 228, O.S.L. 2009 (47 O.S. Supp. 2010, Section
11-1112), which relates to child passenger restraint
systems; clarifying certain exception to child
passenger restraint system requirements; deleting
authorization to give oral warnings for certain
violation; making certain persons exempt from civil
liability; amending 47 O.S. 2001, Section 40-101,
which relates to accident reports; directing
Department of Public Safety to prescribe standard
accident report forms; amending 47 O.S. 2001, Section

1 156.1, as last amended by Section 1, Chapter 248,
2 O.S.L. 2009 (47 O.S. Supp. 2010, Section 156.1),
3 which relates to private use of state-owned motor
4 vehicles; clarifying guidelines for using state-owned
5 vehicles; amending 47 O.S. 2001, Section 752, as last
6 amended by Section 1, Chapter 214, O.S.L. 2009 (47
7 O.S. Supp. 2010, Section 752), which relates to
8 administration of chemical tests; requiring costs
9 associated with collecting certain specimens be
10 included as court costs; and declaring an emergency.

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

12 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-9-104, is
13 amended to read as follows:

14 Section 2-9-104. A. The Board shall have the authority to
15 promulgate rules on the following: the establishment of standards
16 for safe levels of protection against radiation; the maintenance and
17 submission of records; the determination, prevention and control of
18 radiation hazards; the reporting of radiation accidents; the
19 handling, storage and registration of sources of radiation; periodic
20 inspections of facilities using sources of radiation; the review and
21 approval of plans, and the issuance and revocation of permits and
22 licenses, for the use of sources of radiation; prior to issuance of
23 any permit, requirements to post a bond or acceptable alternative
24 financial assurance guaranteeing proper on-site or off-site storage
or disposal; methods and facilities for disposal of sources of
radiation; constructive uses of radiation, and prevention and
control of its associated harmful effects; and other items deemed

1 necessary for the protection of the public health and safety in
2 radiation. Such rules shall be consistent with nationally
3 recognized standards, which may be included by reference in the
4 adopted rules.

5 B. Such rules shall not apply to the use of sources of
6 radiation by diagnostic x-ray facilities or by public safety bomb
7 squads within law enforcement agencies of this state or of any
8 political subdivision of this state.

9 SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-105.4, as
10 last amended by Section 2, Chapter 83, 2nd Extraordinary Session,
11 O.S.L. 2006 (47 O.S. Supp. 2010, Section 2-105.4), is amended to
12 read as follows:

13 Section 2-105.4

14 A. 1. a. The annual salaries for the Commissioner of Public
15 Safety, the Assistant Commissioner of Public Safety
16 and the commissioned officers within the Highway
17 Patrol Division shall be in accordance and conformity
18 with the following salary schedule, exclusive of
19 longevity pay, as authorized by Section 840-2.18 of
20 Title 74 of the Oklahoma Statutes, expense allowance,
21 as authorized by Section 2-130 of this title, and
22 irregular shift pay, as authorized by Section 2-130.1
23 of this title:

24 Commissioner of Public Safety \$89,100.00

1	Assistant Commissioner of Public Safety	\$83,314.00
2	Highway Patrol Colonel (Chief)	\$83,314.00
3	Highway Patrol Lieutenant Colonel	
4	(Assistant Chief)	\$74,827.00
5	Highway Patrol Lieutenant Colonel	
6	(Deputy Chief)	\$67,818.00
7	Highway Patrol Major	\$62,026.00
8	Highway Patrol Captain	\$57,243.00
9	Highway Patrol Lieutenant	\$53,306.00
10	Highway Patrolman (Trooper)	
11	Step 1	\$36,711.00
12	Step 2	\$38,377.00
13	Step 3	\$40,123.00
14	Step 4	\$41,953.00
15	Step 5	\$43,871.00
16	Step 6	\$45,881.00
17	Step 7	\$50,087.00
18	Probationary Highway Patrolman	\$33,000.00
19	Cadet Highway Patrolman	\$30,000.00

20 b. Each Highway Patrolman shall receive upon the
21 anniversary date of the Patrolman an annual salary
22 increase to the step of the salary schedule provided
23 for in subparagraph a of this paragraph which step
24 number corresponds to the number of completed years of

1 service the Patrolman has accumulated in the Highway
2 Patrol Division, including service in the former Lake
3 Patrol Division and the former Capitol Patrol Division
4 of the Department of Public Safety if the Patrolman,
5 within the preceding twelve-month period:

6 (1) has achieved a satisfactory Performance Rating
7 Score,

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

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

14 Provided, if the number of completed years of service on
15 the anniversary date of the Patrolman is or exceeds seven
16 (7) years, said Patrolman shall be assigned to, and the
17 salary of the Patrolman adjusted to, Step 7 of said salary
18 schedule.

19 2. a. Effective January 1, 2007, the annual salaries for the
20 Commissioner of Public Safety, the Assistant
21 Commissioner of Public Safety and the commissioned
22 officers within the Highway Patrol Division shall be
23 in accordance and conformity with the following salary
24 schedule, exclusive of longevity pay, as authorized by

1 Section 840-2.18 of Title 74 of the Oklahoma Statutes,
2 expense allowance, as authorized by Section 2-130 of
3 this title, ~~and~~ irregular shift pay, as authorized by
4 Section 2-130.1 of this title, and any pay from
5 working shifts in addition to or in lieu of regularly
6 scheduled shifts that may result from a contractual
7 agreement entered into by the Department or from a
8 special enforcement assignment:

9	Commissioner of Public Safety	\$111,133.00
10	Assistant Commissioner of Public Safety	\$101,030.00
11	Highway Patrol Colonel (Chief)	\$101,030.00
12	Highway Patrol Lieutenant Colonel	
13	(Assistant Chief)	\$91,844.00
14	Highway Patrol Lieutenant Colonel	
15	(Deputy Chief)	\$83,495.00
16	Highway Patrol Major	\$75,904.00
17	Highway Patrol Captain	\$69,004.00
18	Highway Patrol Lieutenant	\$62,731.00
19	Highway Patrolman (Trooper)	
20	Step 1	\$38,000.00
21	Step 2	\$40,660.00
22	Step 3	\$43,506.00
23	Step 4	\$46,552.00
24	Step 5	\$49,810.00

1	Step 6	\$53,298.00
2	Step 7	\$57,028.00
3	Probationary Highway Patrolman	\$35,514.00
4	Cadet Highway Patrolman	\$33,192.00

5 b. On January 1, 2007, each Patrolman shall be assigned
6 and the salary of such Patrolman shall be adjusted to
7 the salary schedule provided for in subparagraph a of
8 this paragraph. Such initial adjustment of salaries
9 shall be to the step which step number corresponds to
10 the number of completed years of service the Patrolman
11 has accumulated in the Highway Patrol Division,
12 including service in the former Lake Patrol Division
13 and the former Capitol Patrol Division of the
14 Department of Public Safety. Provided, however, no
15 such Patrolman shall receive less than the salary the
16 Patrolman was receiving on December 31, 2006. If the
17 number of completed years of service of such Patrolman
18 exceeds seven (7) years on January 1, 2007, the
19 Patrolman shall be assigned to and the Patrolman's
20 salary adjusted to Step 7 of the salary schedule.

21 c. After January 1, 2007, each Highway Patrolman shall
22 receive upon the anniversary date of the Patrolman an
23 annual salary increase to the step of the salary
24 schedule provided in subparagraph a of this paragraph

1 which step number corresponds to the number of
2 completed years of service the Patrolman has
3 accumulated in the Highway Patrol Division, including
4 service in the former Lake Patrol Division and the
5 former Capitol Patrol Division of the Department of
6 Public Safety, if the Patrolman, within the preceding
7 twelve-month period:

8 (1) has achieved a satisfactory Performance Rating
9 Score,

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

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

16 Provided, if the number of completed years of service on the
17 anniversary date of the Patrolman is or exceeds seven (7) years, the
18 Patrolman shall be assigned to, and the salary of the Patrolman
19 adjusted to, Step 7 of the salary schedule provided in subparagraph
20 a of this paragraph.

21 3. Except as provided in paragraphs 1 and 2 of this subsection,
22 in any twelve-month period no Highway Patrolman shall receive:
23
24

- 1 a. a salary increase which exceeds an increase to the
2 next higher step of the salary schedule provided for
3 in paragraphs 1 and 2 of this subsection, or
4 b. more than one such salary increase to the step of the
5 salary schedule provided for in paragraphs 1 and 2 of
6 this subsection, unless salary increases are
7 authorized by the Legislature.

8 Provided, however, such Patrolman shall receive the salary increase
9 which results from a promotion to another position within the
10 Highway Patrol Division.

11 4. The steps prescribed for the position of Highway Patrolman
12 in the salary schedule provided for in paragraphs 1 and 2 of this
13 subsection are for salary and compensation purposes only. No
14 Highway Patrolman shall be reassigned to another such step of said
15 salary schedule for the purposes of demotion, discipline, promotion,
16 incentive, reward or for any other reason other than the salary
17 increases provided for in paragraphs 1 and 2 of this subsection.

18 5. Upon graduation from the Highway Patrol Academy, each Cadet
19 Highway Patrolman shall be promoted to and shall receive the salary
20 for the position of Probationary Highway Patrolman. Upon completion
21 of the one-year probationary period, as required in subsection C of
22 Section 2-105 of this title, each Probationary Highway Patrolman
23 shall be promoted to and shall receive the salary for Step 1 of the
24 position of Highway Patrolman, as provided for in paragraph 1 or 2

1 of this subsection, as applicable. Thereafter, the salary of such
2 Patrolman shall be subject to the provisions of this subsection.

3 B. The provisions of this section shall supersede all existing
4 laws covering the salaries for the Commissioner of Public Safety,
5 the Assistant Commissioner of Public Safety and the commissioned
6 officers in the Highway Patrol Division of the Department of Public
7 Safety.

8 C. Nothing in this section shall be construed to prohibit a
9 reduction in pay or salary due to involuntary leave without pay as
10 authorized in Section 840-2.27C of Title 74 of the Oklahoma
11 Statutes.

12 SECTION 3. AMENDATORY Section 1, Chapter 319, O.S.L.
13 2008 (47 O.S. Supp. 2010, Section 2-108.1), is amended to read as
14 follows:

15 Section 2-108.1 The Commissioner of Public Safety may enter
16 into interlocal agreements with any other government agency or any
17 state educational institution which is a member of The Oklahoma
18 State System of Higher Education, as prescribed in Section 3201 of
19 Title 70 of the Oklahoma Statutes, for the use of space for the
20 purpose of providing governmental services as required by law of the
21 Department of Public Safety. Such agreements shall be exempt from
22 The Oklahoma Central Purchasing Act. Such agreements shall be
23 exempt from the authority or oversight of the Department of Central
24 Services including, but not limited to, the terms and conditions of

1 The Oklahoma Central Purchasing Act, and Sections 63, 94 and
2 subsection C of Section 129.4 of Title 74 of the Oklahoma Statutes.

3 SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-122, as
4 amended by Section 8, Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2010,
5 Section 2-122), is amended to read as follows:

6 Section 2-122. A. The Commissioner of the Department of Public
7 Safety is authorized to receive funds from gifts, federal and state
8 agency sources, state and local agency employees, and tuition and
9 fees for room and meals from users of the Robert R. Lester ~~Law~~
10 ~~Enforcement Training Academy~~ Center and other training facilities of
11 the Department of Public Safety. All amounts collected shall be
12 deposited in the State Treasury to the credit of the Department of
13 Public Safety Revolving Fund.

14 B. The Commissioner or designee is authorized to receive
15 contributions, gifts and donations for the sole benefit and
16 operation of the education programs of the Department including, but
17 not limited to, the Drug Abuse Resistance Education (D.A.R.E.)
18 Program. All monies received by the Commissioner or designee
19 pursuant to this subsection shall be deposited to the credit of the
20 Department of Public Safety Revolving Fund and shall be expended by
21 the Department solely for the purposes of the operation of the
22 education programs of the Department. All other property received
23 by the Commissioner or designee pursuant to this subsection shall be
24 held by the Department in trust under the terms and conditions

1 imposed by the donors, and title to any and all property acquired,
2 granted or donated to the Department shall be taken in the name of
3 the state to be held for the use and benefit of such education
4 programs of the Department under the conditions of the grants or
5 donations. Provided, however, no real property shall be accepted by
6 the Commissioner or designee for the purposes of this subsection.

7 C. There is hereby created a petty cash fund for the Department
8 of Public Safety. Said fund shall be used by the Department to
9 operate cash drawers as necessary. The amount of the petty cash
10 fund shall be determined by the Director of State Finance and the
11 Commissioner of Public Safety. Purchases from the petty cash fund
12 shall be prohibited. The Director of State Finance shall be
13 authorized to prescribe forms, systems and procedures for the
14 administration of the petty cash fund.

15 SECTION 5. AMENDATORY 47 O.S. 2001, Section 2-143, as
16 amended by Section 7, Chapter 461, O.S.L. 2003 (47 O.S. Supp. 2010,
17 Section 2-143), is amended to read as follows:

18 Section 2-143. There is hereby created in the State Treasury a
19 revolving fund for the Oklahoma Department of Public Safety, to be
20 designated the "Department of Public Safety Patrol Vehicle Revolving
21 Fund". The fund shall be a continuing fund, not subject to fiscal
22 year limitations. All monies accruing to the credit of ~~said~~ the
23 fund are hereby appropriated and shall be budgeted and expended by
24 the Department for the ~~exclusive~~ purpose of ~~the purchase of~~

1 purchasing, equipping, and maintaining patrol vehicles, and patrol
2 aircraft, and the equipping of those vehicles and for any other
3 purpose related to the duties and responsibilities of the
4 Transportation Division of the Department. No monies shall be
5 expended from this fund without expressed authorization by the
6 Legislature. Expenditures from said fund shall be made upon
7 warrants issued by the State Treasurer against claims filed as
8 prescribed by law with the Director of State Finance for approval
9 and payment.

10 SECTION 6. AMENDATORY Section 14, Chapter 397, O.S.L.
11 2002, as amended by Section 2, Chapter 361, O.S.L. 2005 (47 O.S.
12 Supp. 2010, Section 2-144.1), is amended to read as follows:

13 Section 2-144.1 A. There is hereby created in the State
14 Treasury a revolving fund for the Department of Public Safety to be
15 designated the Department of Public Safety Revolving Fund. The fund
16 shall be a continuing fund, not subject to fiscal year limitations,
17 and shall consist of all money received by the Department of Public
18 Safety from:

- 19 1. Sale of surplus property;
- 20 2. Insurance and other reimbursements for damaged, lost or
21 stolen property;
- 22 3. Reimbursement for services of Department personnel as
23 approved by the Department if such personnel are representing the
24 Department or are in any uniform of the Department;

- 1 4. Reimbursement for turnpike enforcement;
- 2 5. Reimbursement for supplies or facsimile or data
- 3 transmissions or for contractual services or products not otherwise
- 4 provided by law;
- 5 6. Fees and costs paid by subscribers to the Oklahoma Law
- 6 Enforcement Telecommunications Systems;
- 7 7. Refund of federal gasoline tax;
- 8 8. Court-ordered forfeitures and the sale of forfeited
- 9 property;
- 10 9. Reimbursements by federal, state and municipal government
- 11 agencies for the use of Department of Public Safety airplanes;
- 12 10. Fees from users of the Robert R. Lester ~~Law Enforcement~~
- 13 ~~Training Academy~~ Center or other Department of Public Safety
- 14 training facilities;
- 15 11. Federal funds, unless otherwise provided by federal law or
- 16 regulation; and
- 17 12. Fines received pursuant to the provisions of subsection G
- 18 of Section 11-1112 of this title.
- 19 B. All monies accruing to the credit of the fund are hereby
- 20 appropriated and may be budgeted and expended by the Department of
- 21 Public Safety for the operating expenses of the Department and for
- 22 vehicles, equipment, personnel and other operating expenses for
- 23 turnpike enforcement; provided, monies accruing pursuant to the
- 24 provisions of paragraph 12 of subsection A of this section shall be

1 used exclusively by the Oklahoma Highway Safety Office to promote
2 the use of child passenger restraint systems as provided in Section
3 11-1113 of this title.

4 C. The Director of State Finance shall provide a distinct
5 numbering system for the identification and tracking of the
6 expenditures of the various programs budgeted from the revolving
7 fund.

8 D. Expenditures from the fund shall be made upon warrants
9 issued by the State Treasurer against claims filed as prescribed by
10 law with the Director of State Finance for approval and payment.

11 SECTION 7. AMENDATORY 47 O.S. 2001, Section 10-113, is
12 amended to read as follows:

13 Section 10-113. ~~(a)~~ A. The Department shall prepare and ~~upon~~
14 ~~request~~ ~~supply~~ make available to police departments, coroners,
15 sheriffs, garages and other suitable agencies or individuals forms
16 for accident reports required hereunder, appropriate with respect to
17 the persons required to make such reports and the purposes to be
18 served. The written reports to be made by persons involved in
19 accidents and by investigating officers shall call for sufficiently
20 detailed information to disclose with reference to a traffic
21 accident the cause, conditions then existing and the persons and
22 vehicles involved.

23 ~~(b)~~ B. Every accident report required to be made in writing
24 shall be made on the appropriate form approved by the Department and

1 shall contain all of the information required therein unless not
2 available.

3 SECTION 8. AMENDATORY 47 O.S. 2001, Section 11-1112, as
4 last amended by Section 26, Chapter 228, O.S.L. 2009 (47 O.S. Supp.
5 2010, Section 11-1112), is amended to read as follows:

6 Section 11-1112. A. Every driver, when transporting a child
7 under six (6) years of age in a motor vehicle operated on the
8 roadways, streets, or highways of this state, shall provide for the
9 protection of said child by properly using a child passenger
10 restraint system. For purposes of this section and Section 11-1113
11 of this title, "child passenger restraint system" means an infant or
12 child passenger restraint system which meets the federal standards
13 as set by 49 C.F.R., Section 571.213.

14 B. Children at least six (6) years of age but younger than
15 thirteen (13) years of age shall be protected by use of a child
16 passenger restraint system or a seat belt.

17 C. The provisions of this section shall not apply to:

18 1. The driver of a school bus, taxicab, moped, motorcycle, or
19 other motor vehicle not required to be equipped with safety belts
20 pursuant to state or federal laws;

21 2. The driver of an ambulance or emergency vehicle;

22 3. The driver of a vehicle in which all of the seat belts are
23 in use;

24

1 4. The transportation of children who for medical reasons are
2 unable to be placed in such devices, provided there is written
3 documentation from a physician of such medical reason; or

4 5. The transportation of a child who weighs more than forty
5 (40) pounds and who is being transported in the back seat of a
6 vehicle while wearing only a lap safety belt when the back seat of
7 the vehicle is not equipped with combination lap and shoulder safety
8 belts, or when the combination lap and shoulder safety belts in the
9 back seat are being used by other children who weigh more than forty
10 (40) pounds. Provided, however, for purposes of this paragraph,
11 back seat shall include all seats located behind the front seat of a
12 vehicle operated by a licensed child care facility or church.

13 Provided further, there shall be a rebuttable presumption that a
14 child has met the weight requirements of this paragraph if at the
15 request of any law enforcement officer, the licensed child care
16 facility or church provides the officer with a written statement
17 verified by the parent or legal guardian that the child weighs more
18 than forty (40) pounds.

19 ~~D. A law enforcement officer is hereby authorized to stop a~~
20 ~~vehicle if it appears that the driver of the vehicle has violated~~
21 ~~the provisions of this section and to give an oral warning to said~~
22 ~~driver. The warning shall advise the driver of the possible danger~~
23 ~~to children resulting from the failure to install or use a child~~
24 ~~passenger restraint system or seat belts in the motor vehicle.~~

1 ~~E.~~ A violation of the provisions of this section shall be
2 admissible as evidence in any civil action or proceeding for damages
3 unless the plaintiff in such action or proceeding is a child under
4 sixteen (16) years of age.

5 In any action brought by or on behalf of an infant for personal
6 injuries or wrongful death sustained in a motor vehicle collision,
7 the failure of any person to have the infant properly restrained in
8 accordance with the provisions of this section shall not be used in
9 aggravation or mitigation of damages.

10 E. A person who is certified as a Child Passenger Safety
11 Technician and who in good faith provides inspection, adjustment, or
12 educational services regarding child passenger restraint systems
13 shall not be liable for civil damages resulting from any act or
14 omission in providing such services, other than acts or omissions
15 constituting gross negligence or willful or wanton misconduct.

16 F. Any person convicted of violating subsection A or B of this
17 section shall be punished by a fine of Fifty Dollars (\$50.00) and
18 shall pay all court costs thereof. Revenue from such fine shall be
19 apportioned to the Department of Public Safety Revolving Fund and
20 used by the Oklahoma Highway Safety Office to promote the use of
21 child passenger restraint systems as provided in Section 11-1113 of
22 this title. This fine shall be suspended and the court costs
23 limited to a maximum of Fifteen Dollars (\$15.00) in the case of the
24 first offense upon proof of purchase or acquisition by loan of a

1 child passenger restraint system. Provided, the Department of
2 Public Safety shall not assess points to the driving record of any
3 person convicted of a violation of this section.

4 SECTION 9. AMENDATORY 47 O.S. 2001, Section 40-101, is
5 amended to read as follows:

6 Section 40-101. The Department shall ~~prepare and supply to~~
7 prescribe standard forms for accident reports for use by all police
8 departments and all other appropriate agencies ~~standard forms for~~.
9 The accident reports calling shall call for sufficiently detailed
10 information to disclose the cause, the conditions then existing, the
11 persons and vehicles involved and such other information as
12 prescribed by the Commissioner.

13 SECTION 10. AMENDATORY 47 O.S. 2001, Section 156.1, as
14 last amended by Section 1, Chapter 248, O.S.L. 2009 (47 O.S. Supp.
15 2010, Section 156.1), is amended to read as follows:

16 Section 156.1 A. It shall be unlawful for any state official,
17 officer, or employee, except any essential employees approved by the
18 Governor and those officers or employees authorized in subsection B
19 of this section, to ride to or from the ~~employee's~~ place of
20 residence of the employee in a state-owned automobile, truck, or
21 pickup, except in the performance of the ~~employee's~~ official duty of
22 the employee, or to use or permit the use of any such automobile,
23 truck, ambulance, or pickup for other personal or private purposes.
24 Any person convicted of violating the provisions of this section

1 shall be guilty of a misdemeanor and shall be punished by a fine of
2 not more than One Hundred Dollars (\$100.00) or by imprisonment in
3 the county jail for a period to not exceed thirty (30) days, or by
4 both said fine and imprisonment, and in addition thereto, shall be
5 discharged from state employment.

6 B. 1. Any state employee, other than the individuals provided
7 for in paragraph 2 of this subsection and any employee of the
8 Department of Public Safety who is an employee in the Driver License
9 Examining Division ~~and~~ or the Driver Compliance Division or a
10 wrecker ~~inspector/auditor~~ inspector or auditor of the Wrecker
11 Services Division as provided for in paragraph 3 of this subsection,
12 who receives emergency telephone calls regularly at the ~~employee's~~
13 residence of the employee when the employee is not on duty and is
14 regularly called upon to use a vehicle after normal work hours in
15 response to such emergency calls, may be permitted to use a vehicle
16 belonging to the State of Oklahoma to provide transportation between
17 the ~~employee's~~ residence of the employee and the assigned place of
18 employment, provided such distance does not exceed seventy-five (75)
19 miles in any round trip or is within the county where the assigned
20 place of employment is located. Provided further, an employee may
21 be permitted to use a state-owned vehicle to provide temporary
22 transportation between a specific work location other than the
23 assigned place of employment and the ~~employee's~~ residence of the
24 employee, if such use shall result in a monetary saving to the

1 agency, and such authorization shall not be subject to the distance
2 or area restrictions provided for in this paragraph. Authorization
3 for temporary use of a state-owned vehicle for a specific project
4 shall be in writing stating the justification for this use and the
5 saving expected to result. Such authorization shall be valid for
6 not to exceed sixty (60) days. Any state entity other than law
7 enforcement that avails itself of this provision shall keep a
8 monthly record of all participating employees, the number of
9 emergency calls received, and the number of times that a state
10 vehicle was used in the performance of such emergency calls.

11 2. Any employee of the Department of Public Safety, Oklahoma
12 State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma
13 State Bureau of Investigation, Alcoholic Beverage Laws Enforcement
14 Commission, Oklahoma Horse Racing Commission, Oklahoma Department of
15 Agriculture, Food, and Forestry, Office of the Inspector General
16 within the Department of Human Services or Office of the State Fire
17 Marshal, who is a law enforcement officer or criminalist, Public
18 Information officer, Special Investigator or Assistant Director of
19 the Oklahoma State Bureau of Investigation, CLEET-certified
20 Investigator for a state board or any employee of a district
21 attorney who is a law enforcement officer, may be permitted to use a
22 state-owned vehicle to provide transportation between the ~~employee's~~
23 residence of the employee and the assigned place of employment and
24 between the residence and any location other than the assigned place

1 of employment to which the employee travels in the performance of
2 the ~~employee's~~ official duty of the employee.

3 3. Any employee of the Department of Public Safety who is an
4 employee in the Driver License Examining Division ~~or~~, an employee of
5 the Driver Compliance Division ~~or~~, a wrecker inspector/auditor
6 inspector or auditor of the Wrecker Services Division, or a
7 noncommissioned pilot may be permitted, as determined by the
8 Commissioner, to use a state-owned vehicle to provide transportation
9 between the ~~employee's~~ residence of the employee and the assigned
10 place of employment and between the residence and any location other
11 than the assigned place of employment to which the employee travels
12 in the performance of the ~~employee's~~ official duty of the employee.

13 4. The Director, department heads and other essential employees
14 of the Department of Wildlife Conservation, as authorized by the
15 Wildlife Conservation Commission, may be permitted to use a state-
16 owned vehicle to provide transportation between the ~~employee's~~
17 residence of the employee and the assigned place of employment and
18 between the residence and any location other than the assigned place
19 of employment to which the employee travels in the performance of
20 the ~~employee's~~ official duty of the employee.

21 C. The principal administrator of the state agency with which
22 the employee is employed shall so designate the ~~employee's~~ status of
23 the employee in writing or provide a copy of the temporary
24 authorization to the Governor, the President Pro Tempore of the

1 Senate, and the Speaker of the House of Representatives. Such
2 employee status report shall also be provided to the State Fleet
3 Manager of the Division of Fleet Management if the motor vehicle for
4 emergency use is provided by said Division.

5 SECTION 11. AMENDATORY 47 O.S. 2001, Section 752, as
6 last amended by Section 1, Chapter 214, O.S.L. 2009 (47 O.S. Supp.
7 2010, Section 752), is amended to read as follows:

8 Section 752. A. Only a licensed medical doctor, licensed
9 osteopathic physician, licensed chiropractic physician, registered
10 nurse, licensed practical nurse, physician's assistant, certified by
11 the State Board of Medical Licensure and Supervision, an employee of
12 a hospital or other health care facility authorized by the hospital
13 or health care facility to withdraw blood, or other qualified person
14 authorized by the Board of Tests for Alcohol and Drug Influence
15 acting at the request of a law enforcement officer may withdraw
16 blood for purpose of having a determination made of its
17 concentration of alcohol or the presence or concentration of other
18 intoxicating substance. Only qualified persons authorized by the
19 Board may collect breath, saliva or urine, or administer tests of
20 breath under the provisions of this title.

21 B. If the person authorized to withdraw blood as specified in
22 subsection A of this section is presented with a written statement:

23 1. Authorizing blood withdrawal signed by the person whose
24 blood is to be withdrawn;

1 2. Signed by a duly authorized peace officer that the person
2 whose blood is to be withdrawn has agreed to the withdrawal of
3 blood;

4 3. Signed by a duly authorized peace officer that the person
5 whose blood is to be withdrawn has been placed under arrest and that
6 the officer has probable cause to believe that the person, while
7 intoxicated, has operated a motor vehicle in such manner as to have
8 caused the death or serious physical injury of another person, or
9 the person has been involved in a traffic accident and has been
10 removed from the scene of the accident that resulted in the death or
11 great bodily injury, as defined in subsection B of Section 646 of
12 Title 21 of the Oklahoma Statutes, of any person to a hospital or
13 other health care facility outside the State of Oklahoma before the
14 law enforcement officer was able to effect an arrest for such
15 offense; or

16 4. In the form of an order from a district court that blood be
17 withdrawn, the person authorized to withdraw the blood and the
18 hospital or other health care facility where the withdrawal occurs
19 may rely on such a statement or order as evidence that the person
20 has consented to or has been required to submit to the clinical
21 procedure and shall not require the person to sign any additional
22 consent or waiver form. In such a case, the person authorized to
23 perform the procedure, the employer of such person, and the hospital
24

1 or other health care facility shall not be liable in any action
2 alleging lack of consent or lack of informed consent.

3 C. No person specified in subsection A of this section, no
4 employer of such person, and no hospital or other health care
5 facility where blood is withdrawn shall incur any civil or criminal
6 liability as a result of the proper withdrawal of blood when acting
7 at the request of a law enforcement officer by the provisions of
8 Section 751 or 753 of this title, or when acting in reliance upon a
9 signed statement or court order as provided in this section, if the
10 act is performed in a reasonable manner according to generally
11 accepted clinical practice. No person specified in subsection A of
12 this section shall incur any civil or criminal liability as a result
13 of the proper collection of breath, saliva or urine when acting at
14 the request of a law enforcement officer under the provisions of
15 Section 751 or 753 of this title or when acting pursuant to a court
16 order.

17 D. The blood, breath, saliva or urine specimens obtained shall
18 be tested by the appropriate test as determined by the Board, or
19 tested by a laboratory that is exempt from the Board rules pursuant
20 to Section 759 of this title, to determine the alcohol concentration
21 thereof, or the presence or concentration of any other intoxicating
22 substance which might have affected the ability of the person tested
23 to operate a motor vehicle safely.

24

1 E. When blood is withdrawn or saliva or urine is collected for
2 testing of its alcohol concentration or other intoxicating substance
3 presence or concentration, at the request of a law enforcement
4 officer, a sufficient quantity of the same specimen shall be
5 obtained to enable the tested person, at his or her own option and
6 expense, to have an independent analysis made of such specimen. The
7 excess blood, saliva or urine specimen shall be retained by a
8 laboratory approved by the Board, in accordance with the rules and
9 regulations of the Board, or by a laboratory that is exempt from the
10 Board rules pursuant to Section 759 of this title, for sixty (60)
11 days from the date of collection. At any time within that period,
12 the tested person or his or her attorney may direct that such blood,
13 saliva or urine specimen be sent or delivered to a laboratory of his
14 or her own choosing and approved by the Board for an independent
15 analysis. Neither the tested person, nor any agent of such person,
16 shall have access to the additional blood, saliva or urine specimen
17 prior to the completion of the independent analysis, except the
18 analyst performing the independent analysis and agents of the
19 analyst.

20 F. When a test of breath is performed for the purpose of
21 determining the alcohol concentration thereof, except when such test
22 is performed by means of an automated analyzer as designated by the
23 Board, a sufficient quantity of breath, or of the alcohol content of
24 a fixed or measured quantity of breath, shall be obtained, in

1 accordance with the rules and regulations of the Board, to enable
2 the tested person, at his or her own option and expense, to have an
3 independent analysis made of such specimen. The excess specimen of
4 breath, or of its alcohol content, shall be retained by the law
5 enforcement agency employing the arresting officer, in accordance
6 with the rules and regulations of the Board, for sixty (60) days
7 from the date of collection. At any time within that period, the
8 tested person, or his or her attorney, may direct that such specimen
9 be sent or delivered to a laboratory of his or her own choosing and
10 approved by the Board for an independent analysis. Neither the
11 tested person, nor any agent of such person, shall have access to
12 the additional specimen of breath, or of its alcohol content, prior
13 to the completion of the independent analysis thereof, except the
14 analyst performing the independent analysis and agents of the
15 analyst.

16 G. The costs of collecting blood, breath, saliva or urine
17 specimens for the purpose of determining the alcohol or other
18 intoxicating substance thereof, by or at the direction of a law
19 enforcement officer, shall be borne by the law enforcement agency
20 employing such officer; provided, if the person is convicted for any
21 offense involving the operation of a motor vehicle while under the
22 influence of or while impaired by alcohol or an intoxicating
23 substance, or both, as a direct result of the incident which caused
24 the collection of blood, saliva or urine specimens, an amount equal

1 to the costs shall become a part of the court costs of the person
2 and shall be collected by the court and remitted to the law
3 enforcement agency bearing the costs. The cost of collecting,
4 retaining and sending or delivering to an independent laboratory the
5 excess specimens of blood, breath, saliva or urine for independent
6 analysis at the option of the tested person shall also be borne by
7 such law enforcement agency. The cost of the independent analysis
8 of such specimen of blood, breath, saliva or urine shall be borne by
9 the tested person at whose option such analysis is performed. The
10 tested person, or his or her agent, shall make all necessary
11 arrangements for the performance of such independent analysis other
12 than the forwarding or delivery of such specimen.

13 H. Tests of blood or breath for the purpose of determining the
14 alcohol concentration thereof, and tests of blood, saliva or urine
15 for the purpose of determining the presence or concentration of any
16 other intoxicating substance therein, under the provisions of this
17 title, whether administered by or at the direction of a law
18 enforcement officer or administered independently, at the option of
19 the tested person, on the excess specimen of such person's blood,
20 breath, saliva or urine, to be considered valid and admissible in
21 evidence under the provisions of this title, shall have been
22 administered or performed in accordance with the rules and
23 regulations of the Board, or performed by a laboratory that is
24 exempt from the Board rules pursuant to Section 759 of this title.

1 I. Any person who has been arrested for any offense arising out
2 of acts alleged to have been committed while the person was
3 operating or in actual physical control of a motor vehicle while
4 under the influence of alcohol, any other intoxicating substance or
5 the combined influence of alcohol and any other intoxicating
6 substance who is not requested by a law enforcement officer to
7 submit to a test shall be entitled to have an independent test of
8 his or her blood, breath, saliva or urine which is appropriate as
9 determined by the Board for the purpose of determining its alcohol
10 concentration or the presence or concentration of any other
11 intoxicating substance therein, performed by a person of his or her
12 own choosing who is qualified as stipulated in this section. The
13 arrested person shall bear the responsibility for making all
14 necessary arrangements for the administration of such independent
15 test and for the independent analysis of any specimens obtained, and
16 bear all costs thereof. The failure or inability of the arrested
17 person to obtain an independent test shall not preclude the
18 admission of other competent evidence bearing upon the question of
19 whether such person was under the influence of alcohol, or any other
20 intoxicating substance or the combined influence of alcohol and any
21 other intoxicating substance.

22 J. Any agency or laboratory certified by the Board or any
23 agency or laboratory that is exempt from the Board rules pursuant to
24 Section 759 of this title, which analyses breath, blood, or urine

1 shall make available a written report of the results of the test
2 administered by or at the direction of the law enforcement officer
3 to:

- 4 1. The tested person, or his or her attorney;
- 5 2. The Commissioner of Public Safety; and
- 6 3. The Fatality Analysis Reporting System (FARS) analyst of the
7 state, upon request.

8 The results of the tests provided for in this title shall be
9 admissible in civil actions.

10 SECTION 12. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 Passed the House of Representatives the 17th day of March, 2011.

15

16

17

Presiding Officer of the House of
Representatives

18

19 Passed the Senate the ____ day of _____, 2011.

20

21

22

Presiding Officer of the Senate

23

24