SENATE FLOOR VERSION
April 7, 2011
As Amended

ENGROSSED HOUSE
BILL NO. 1676

By: Billy, Roan and Cooksey of the House

and

Nichols and Ivester of the Senate

[public safety - Radiation Management Act - salaries and responsibilities of the Department of Public Safety - child passenger restraint systems - standard accident forms - chemical tests - costs - emergency]

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

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

Section 2-9-104. A. The Board shall have the authority to promulgate rules on the following: the establishment of standards for safe levels of protection against radiation; the maintenance and submission of records; the determination, prevention and control of radiation hazards; the reporting of radiation accidents; the handling, storage and registration of sources of radiation; periodic inspections of facilities using sources of radiation; the review and approval of plans, and the issuance and revocation of permits and

licenses, for the use of sources of radiation; prior to issuance of any permit, requirements to post a bond or acceptable alternative 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 necessary for the protection of the public health and safety in radiation. Such rules shall be consistent with nationally recognized standards, which may be included by reference in the adopted rules.

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

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

Section 2-105.4

A. 1. a. The annual salaries for the Commissioner of Public Safety, the Assistant Commissioner of Public Safety and the commissioned officers within the Highway Patrol Division shall be in accordance and conformity with the following salary schedule, exclusive of

longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, and irregular shift pay, as authorized by Section 2-130.1 of this title:

Commissioner of Public Safety	$89,100.00
Assistant Commissioner of Public Safety	$83,314.00
Highway Patrol Colonel (Chief)	$83,314.00
Highway Patrol Lieutenant Colonel (Assistant Chief)	$74,827.00
Highway Patrol Lieutenant Colonel (Deputy Chief)	$67,818.00
Highway Patrol Major	$62,026.00
Highway Patrol Captain	$57,243.00
Highway Patrol Lieutenant	$53,306.00
Highway Patrolman (Trooper)	
Step 1	$36,711.00
Step 2	$38,377.00
Step 3	$40,123.00
Step 4	$41,953.00
Step 5	$43,871.00
Step 6	$45,881.00
Step 7	$50,087.00
Probationary Highway Patrolman	$33,000.00

Cadet Highway Patrolman $30,000.00

b. Each Highway Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the step of the salary schedule provided for in subparagraph a of this paragraph which step number corresponds to the number of completed years of service the Patrolman has accumulated in the Highway Patrol Division, including service in the former Lake Patrol Division and the former Capitol Patrol Division of the Department of Public Safety if the Patrolman, within the preceding twelve-month period:

(1) has achieved a satisfactory Performance Rating Score,

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

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

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

2. a. Effective January 1, 2007, the annual salaries for the Commissioner of Public Safety, the Assistant Commissioner of Public Safety and the commissioned officers within the Highway Patrol Division shall be in accordance and conformity with the following salary schedule, exclusive of longevity pay, as authorized by Section 840-2.18 of Title 74 of the Oklahoma Statutes, expense allowance, as authorized by Section 2-130 of this title, ~~and~~ irregular shift pay, as authorized by Section 2-130.1 of this title, and any pay from working shifts in addition to or in lieu of regularly scheduled shifts that may result from a contractual agreement entered into by the Department or from a special enforcement assignment:

Commissioner of Public Safety	$111,133.00
Assistant Commissioner of Public Safety	$101,030.00
Highway Patrol Colonel (Chief)	$101,030.00
Highway Patrol Lieutenant Colonel (Assistant Chief)	$91,844.00
Highway Patrol Lieutenant Colonel (Deputy Chief)	$83,495.00
Highway Patrol Major	$75,904.00
Highway Patrol Captain	$69,004.00
Highway Patrol Lieutenant	$62,731.00

Highway Patrolman (Trooper)	
Step 1	$38,000.00
Step 2	$40,660.00
Step 3	$43,506.00
Step 4	$46,552.00
Step 5	$49,810.00
Step 6	$53,298.00
Step 7	$57,028.00
Probationary Highway Patrolman	$35,514.00
Cadet Highway Patrolman	$33,192.00

b. On January 1, 2007, each Patrolman shall be assigned and the salary of such Patrolman shall be adjusted to the salary schedule provided for in subparagraph a of this paragraph. Such initial adjustment of salaries shall be to the step which step number corresponds to the number of completed years of service the Patrolman has accumulated in the Highway Patrol Division, including service in the former Lake Patrol Division and the former Capitol Patrol Division of the Department of Public Safety. Provided, however, no such Patrolman shall receive less than the salary the Patrolman was receiving on December 31, 2006. If the number of completed years of service of such Patrolman exceeds seven (7) years on January 1, 2007, the

Patrolman shall be assigned to and the Patrolman's salary adjusted to Step 7 of the salary schedule.

c. After January 1, 2007, each Highway Patrolman shall receive upon the anniversary date of the Patrolman an annual salary increase to the step of the salary schedule provided in subparagraph a of this paragraph which step number corresponds to the number of completed years of service the Patrolman has accumulated in the Highway Patrol Division, including service in the former Lake Patrol Division and the former Capitol Patrol Division of the Department of Public Safety, if the Patrolman, within the preceding twelve-month period:

(1) has achieved a satisfactory Performance Rating Score,

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

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

Provided, if the number of completed years of service on the anniversary date of the Patrolman is or exceeds seven (7) years, the Patrolman shall be assigned to, and the salary of the Patrolman

adjusted to, Step 7 of the salary schedule provided in subparagraph a of this paragraph.

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

a. a salary increase which exceeds an increase to the next higher step of the salary schedule provided for in paragraphs 1 and 2 of this subsection, or

b. more than one such salary increase to the step of the salary schedule provided for in paragraphs 1 and 2 of this subsection, unless salary increases are authorized by the Legislature.

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

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

5. Upon graduation from the Highway Patrol Academy, each Cadet Highway Patrolman shall be promoted to and shall receive the salary for the position of Probationary Highway Patrolman. Upon completion

of the one-year probationary period, as required in subsection C of Section 2-105 of this title, each Probationary Highway Patrolman shall be promoted to and shall receive the salary for Step 1 of the position of Highway Patrolman, as provided for in paragraph 1 or 2 of this subsection, as applicable. Thereafter, the salary of such Patrolman shall be subject to the provisions of this subsection.

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

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

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

Section 2-108.1 The Commissioner of Public Safety may enter into interlocal agreements with any other government agency or any state educational institution which is a member of The Oklahoma State System of Higher Education, as prescribed in Section 3201 of Title 70 of the Oklahoma Statutes, for the use of space for the purpose of providing governmental services as required by law of the

Department of Public Safety. Such agreements shall be exempt from The Oklahoma Central Purchasing Act. Such agreements shall be exempt from the authority or oversight of the Department of Central Services including, but not limited to, the terms and conditions of The Oklahoma Central Purchasing Act, and Sections 63, 94 and subsection C of Section 129.4 of Title 74 of the Oklahoma Statutes.

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

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

B. The Commissioner or designee is authorized to receive contributions, gifts and donations for the sole benefit and operation of the education programs of the Department including, but not limited to, the Drug Abuse Resistance Education (D.A.R.E.) Program. All monies received by the Commissioner or designee pursuant to this subsection shall be deposited to the credit of the Department of Public Safety Revolving Fund and shall be expended by

the Department solely for the purposes of the operation of the education programs of the Department. All other property received by the Commissioner or designee pursuant to this subsection shall be held by the Department in trust under the terms and conditions imposed by the donors, and title to any and all property acquired, granted or donated to the Department shall be taken in the name of the state to be held for the use and benefit of such education programs of the Department under the conditions of the grants or donations. Provided, however, no real property shall be accepted by the Commissioner or designee for the purposes of this subsection.

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

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

Section 2-143. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Public Safety, to be designated the "Department of Public Safety Patrol Vehicle Revolving

Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and shall be budgeted and expended by the Department for the ~~exclusive~~ purpose of ~~the purchase of~~ purchasing, equipping, and maintaining patrol vehicles~~,~~ and patrol aircraft~~, and the equipping of those vehicles~~ and for any other purpose related to the duties and responsibilities of the Transportation Division of the Department. No monies shall be expended from this fund without expressed authorization by the Legislature. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

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

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

1. Sale of surplus property;

2. Insurance and other reimbursements for damaged, lost or stolen property;

3. Reimbursement for services of Department personnel as approved by the Department if such personnel are representing the Department or are in any uniform of the Department;

4. Reimbursement for turnpike enforcement;

5. Reimbursement for supplies or facsimile or data transmissions or for contractual services or products not otherwise provided by law;

6. Fees and costs paid by subscribers to the Oklahoma Law Enforcement Telecommunications Systems;

7. Refund of federal gasoline tax;

8. Court-ordered forfeitures and the sale of forfeited property;

9. Reimbursements by federal, state and municipal government agencies for the use of Department of Public Safety airplanes;

10. Fees from users of the Robert R. Lester ~~Law Enforcement~~ Training ~~Academy~~ Center or other Department of Public Safety training facilities;

11. Federal funds, unless otherwise provided by federal law or regulation; and

12. Fines received pursuant to the provisions of subsection G of Section 11-1112 of this title.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Public Safety for the operating expenses of the Department and for vehicles, equipment, personnel and other operating expenses for turnpike enforcement; provided, monies accruing pursuant to the provisions of paragraph 12 of subsection A of this section shall be used exclusively by the Oklahoma Highway Safety Office to promote the use of child passenger restraint systems as provided in Section 11-1113 of this title.

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

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

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

Section 10-113. ~~(a)~~ A. The Department shall prepare and ~~upon request supply~~ make available to police departments, coroners, sheriffs, garages and other suitable agencies or individuals forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in

accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing and the persons and vehicles involved.

~~(b)~~ B. Every accident report required to be made in writing shall be made on the appropriate form approved by the Department and shall contain all of the information required therein unless not available.

SECTION 8. AMENDATORY 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), is amended to read as follows:

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

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

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

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

2. The driver of an ambulance or emergency vehicle;

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

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

5. The transportation of a child who weighs more than forty (40) pounds and who is being transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with combination lap and shoulder safety belts, or when the combination lap and shoulder safety belts in the back seat are being used by other children who weigh more than forty (40) pounds. Provided, however, for purposes of this paragraph, back seat shall include all seats located behind the front seat of a vehicle operated by a licensed child care facility or church. Provided further, there shall be a rebuttable presumption that a child has met the weight requirements of this paragraph if at the request of any law enforcement officer, the licensed child care facility or church provides the officer with a written statement verified by the parent or legal guardian that the child weighs more than forty (40) pounds.

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

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

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

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

F. Any person convicted of violating subsection A or B of this section shall be punished by a fine of Fifty Dollars ($50.00) and shall pay all court costs thereof. Revenue from such fine shall be

apportioned to the Department of Public Safety Revolving Fund and used by the Oklahoma Highway Safety Office to promote the use of child passenger restraint systems as provided in Section 11-1113 of this title. This fine shall be suspended and the court costs limited to a maximum of Fifteen Dollars ($15.00) in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system. Provided, the Department of Public Safety shall not assess points to the driving record of any person convicted of a violation of this section.

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

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

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

Section 156.1 A. It shall be unlawful for any state official, officer, or employee, except any essential employees approved by the Governor and those officers or employees authorized in subsection B

of this section, to ride to or from the ~~employee's~~ place of residence of the employee in a state-owned automobile, truck, or pickup, except in the performance of the ~~employee's~~ official duty of the employee, or to use or permit the use of any such automobile, truck, ambulance, or pickup for other personal or private purposes. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Hundred Dollars ($100.00) or by imprisonment in the county jail for a period to not exceed thirty (30) days, or by both said fine and imprisonment, and in addition thereto, shall be discharged from state employment.

B. 1. Any state employee, other than the individuals provided for in paragraph 2 of this subsection and any employee of the Department of Public Safety who is an employee in the Driver License Examining Division ~~and~~ or the Driver Compliance Division or a wrecker ~~inspector/auditor~~ inspector or auditor of the Wrecker Services Division as provided for in paragraph 3 of this subsection, who receives emergency telephone calls regularly at the ~~employee's~~ residence of the employee when the employee is not on duty and is regularly called upon to use a vehicle after normal work hours in response to such emergency calls, may be permitted to use a vehicle belonging to the State of Oklahoma to provide transportation between the ~~employee's~~ residence of the employee and the assigned place of employment, provided such distance does not exceed seventy-five (75)

miles in any round trip or is within the county where the assigned place of employment is located. Provided further, an employee may be permitted to use a state-owned vehicle to provide temporary transportation between a specific work location other than the assigned place of employment and the ~~employee's~~ residence of the employee, if such use shall result in a monetary saving to the agency, and such authorization shall not be subject to the distance or area restrictions provided for in this paragraph. Authorization for temporary use of a state-owned vehicle for a specific project shall be in writing stating the justification for this use and the saving expected to result. Such authorization shall be valid for not to exceed sixty (60) days. Any state entity other than law enforcement that avails itself of this provision shall keep a monthly record of all participating employees, the number of emergency calls received, and the number of times that a state vehicle was used in the performance of such emergency calls.

2. Any employee of the Department of Public Safety, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma State Bureau of Investigation, Alcoholic Beverage Laws Enforcement Commission, Oklahoma Horse Racing Commission, Oklahoma Department of Agriculture, Food, and Forestry, Office of the Inspector General within the Department of Human Services or Office of the State Fire Marshal, who is a law enforcement officer or criminalist, Public Information officer, Special Investigator or Assistant Director of

the Oklahoma State Bureau of Investigation, CLEET-certified Investigator for a state board or any employee of a district attorney who is a law enforcement officer, may be permitted to use a state-owned vehicle to provide transportation between the ~~employee's~~ residence of the employee and the assigned place of employment and between the residence and any location other than the assigned place of employment to which the employee travels in the performance of the ~~employee's~~ official duty of the employee.

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

4. The Director, department heads and other essential employees of the Department of Wildlife Conservation, as authorized by the Wildlife Conservation Commission, may be permitted to use a state-owned vehicle to provide transportation between the ~~employee's~~ residence of the employee and the assigned place of employment and between the residence and any location other than the assigned place

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

C. The principal administrator of the state agency with which the employee is employed shall so designate the ~~employee's~~ status of the employee in writing or provide a copy of the temporary authorization to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. Such employee status report shall also be provided to the State Fleet Manager of the Division of Fleet Management if the motor vehicle for emergency use is provided by said Division.

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

Section 752. A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, certified by the State Board of Medical Licensure and Supervision, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or other qualified person authorized by the Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer may withdraw blood for purpose of having a determination made of its concentration of alcohol or the presence or concentration of other intoxicating substance. Only qualified persons authorized by the

Board may collect breath, saliva or urine, or administer tests of breath under the provisions of this title.

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

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

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

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

4. In the form of an order from a district court that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs

may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

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

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board, or tested by a laboratory that is exempt from the Board rules pursuant

to Section 759 of this title, to determine the alcohol concentration thereof, or the presence or concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a motor vehicle safely.

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

F. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in accordance with the rules and regulations of the Board, to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency

employing such officer; provided, if the person is convicted for any offense involving the operation of a motor vehicle while under the influence of or while impaired by alcohol or an intoxicating substance, or both, as a direct result of the incident which caused the collection of blood, saliva or urine specimens, an amount equal to the costs shall become a part of the court costs of the person and shall be collected by the court and remitted to the law enforcement agency bearing the costs. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

H. Tests of blood or breath for the purpose of determining the alcohol concentration thereof, and tests of blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance therein, under the provisions of this title, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood,

breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this title, shall have been administered or performed in accordance with the rules and regulations of the Board, or performed by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title.

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

intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

J. Any agency or laboratory certified by the Board or any agency or laboratory that is exempt from the Board rules pursuant to Section 759 of this title, which analyses breath, blood, or urine shall make available a written report of the results of the test administered by or at the direction of the law enforcement officer to:

1. The tested person, or his or her attorney;

2. The Commissioner of Public Safety; and

3. The Fatality Analysis Reporting System (FARS) analyst of the state, upon request.

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

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-11 - DO PASS, As Amended and Coauthored.