SENATE FLOOR VERSION
February 28, 2012
As Amended

SENATE BILL NO. 1247 By: Nichols of the Senate

and

Hardin of the House

[Department of Public Safety funds - disposition of seized property - deposits to Department of Public Safety Revolving Fund - effective date - emergency]

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 3-460, is amended to read as follows:

Section 3-460. A. The Department of Mental Health and Substance Abuse Services shall certify assessment personnel for the purpose of conducting alcohol and drug assessment and evaluation programs related to driver license revocation.

B. Application fees for certification of assessment personnel shall be set by the Department to defray the costs of administering the program and shall be:

1. Not less than One Hundred Dollars ($100.00) and not more than Two Hundred Dollars ($200.00) upon initial application; and

2. Not less than Twenty-five Dollars ($25.00) and not more than One Hundred Fifty Dollars ($150.00) upon triennial renewal.

C. The fee for those undergoing an assessment and evaluation pursuant to this section shall be One Hundred Sixty Dollars ($160.00). A fee of Fifteen Dollars ($15.00) shall be remitted by the individual undergoing an assessment and evaluation directly to the Department of Public Safety pursuant to Section 6-212 of Title 47 of the Oklahoma Statutes.

1. The Department of Public Safety shall remit ninety percent (90%) of the Fifteen Dollar ($15.00) fee collected pursuant to this section to the State Treasurer to be credited to the Community-based Substance Abuse Revolving Fund in the State Treasury and shall be used by the Department of Mental Health and Substance Abuse Services.

2. Ten percent (10%) of each Fifteen Dollar ($15.00) fee collected by the Department of Public Safety pursuant to this section shall be deposited into the ~~Department of Public Safety Revolving Fund, as created in Section 2-144.1~~ Department of Public Safety Restricted Revolving Fund, as created in Section 2-145 of Title 47 of the Oklahoma Statutes, to be used for administrative costs associated with the duties imposed by this section.

D. The Board of Mental Health and Substance Abuse Services is authorized to promulgate such rules as are necessary to implement the provisions of ~~this act~~ Section 3-451 et seq. of this title.

Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation, suspension or nonrenewal of certification.

E. The Director of the Office of State Finance shall transfer any unobligated monies generated by the fees in subsection C of this section, deposited before November 1, 2005, from the Department of Mental Health and Substance Abuse Services Revolving Fund to the Community-based Substance Abuse Revolving Fund, in amounts calculated by the Department.

F. No alcohol or drug assessment personnel shall operate or continue to operate as such unless the alcohol or drug assessment personnel comply with the rules promulgated by the Board and are certified as required by this section.

SECTION 2. AMENDATORY 47 O.S. 2011, 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 Training 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~~ Department of Public Safety Restricted 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 3. AMENDATORY 47 O.S. 2011, Section 2-125, is amended to read as follows:

Section 2-125. The Commissioner of the Department of Public Safety shall deposit in the State Treasury to the credit of the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund any monies that are derived from user fees and installation costs paid by subscribers for terminals that are a part of the Oklahoma Law Enforcement Telecommunication Systems. In addition to other purposes authorized by law, expenditures from ~~said~~ the Fund shall be used for purchases of terminal equipment, installation costs, personnel, and other operating expenses of the Oklahoma Law Enforcement Telecommunication Systems.

SECTION 4. AMENDATORY 47 O.S. 2011, 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.~~ 5. Fees and costs paid by subscribers to the Oklahoma Law Enforcement Telecommunications Systems;

~~7.~~ 6. Refund of federal gasoline tax;

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

~~9.~~ 7. Reimbursements by federal, state and municipal government agencies for the use of Department of Public Safety airplanes;

~~10.~~ 8. Fees from users of the Robert R. Lester Training Center or other Department of Public Safety training facilities;

~~11.~~ 9. Federal funds, unless otherwise provided by federal law or regulation; and

~~12. Fines~~ 10. Any other funds received pursuant to ~~the provisions of subsection G of Section 11-1112 of this title~~ law and designated for deposit into the fund.

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 5. AMENDATORY 47 O.S. 2011, Section 6-101, is amended to read as follows:

Section 6-101. A. No person, except those hereinafter expressly exempted in Section 6-102 of this title, shall operate any motor vehicle upon a highway in this state unless the person has a valid Oklahoma driver license for the class of vehicle being operated under the provisions of this title. No person shall be permitted to possess more than one valid license at any time.

B. 1. No person shall operate a Class A commercial motor vehicle unless the person is eighteen (18) years of age or older and holds a valid Class A commercial license, except as provided in paragraph 5 of this subsection. Any person holding a valid Class A commercial license shall be permitted to operate motor vehicles in Classes A, B, C and D, except as provided for in paragraph 4 of this subsection.

2. No person shall operate a Class B commercial motor vehicle unless the person is eighteen (18) years of age or older and holds a valid Class B commercial license. Any person holding a valid Class B commercial license shall be permitted to operate motor vehicles in Classes B, C and D, except as provided for in paragraph 4 of this subsection.

3. No person shall operate a Class C commercial motor vehicle unless the person is eighteen (18) years of age or older and holds a valid Class C commercial license. Any person holding a valid Class C commercial license shall be permitted to operate motor vehicles in Classes C and D, except as provided for in paragraph 4 of this subsection.

4. No person under twenty-one (21) years of age shall be licensed to operate any motor vehicle which is required to be placarded for hazardous materials pursuant to 49 C.F.R., Part 172, subpart F; provided, a person eighteen (18) years of age or older may be licensed to operate a farm vehicle which is required to be

placarded for hazardous materials pursuant to 49 C.F.R., Part 172, subpart F.

5. A person at least seventeen (17) years of age who successfully completes all examinations required by law may be issued by the Department:

a. a restricted Class A commercial license which shall grant to the licensee the privilege to operate a Class A or Class B commercial motor vehicle for harvest purposes or a Class D motor vehicle, or

b. a restricted Class B commercial license which shall grant to the licensee the privilege to operate a Class B commercial motor vehicle for harvest purposes or a Class D motor vehicle.

6. No person shall operate a Class D motor vehicle unless the person is sixteen (16) years of age or older and holds a valid Class D license, except as provided for in Section 6-102 or 6-105 of this title. Any person holding a valid Class D license shall be permitted to operate motor vehicles in Class D only.

C. Any person issued a driver license pursuant to this section may exercise the privilege thereby granted upon all streets and highways in this state.

D. No person shall operate a motorcycle or motor-driven cycle without having a valid Class A, B, C or D license with a motorcycle endorsement. Except as otherwise provided by law, any new applicant

for an original driver license shall be required to successfully complete a written examination, vision examination, and driving examination for a motorcycle as prescribed by the Department of Public Safety to be eligible for a motorcycle endorsement thereon. The driving examination for a motorcycle may be waived by the Department of Public Safety upon verification that the person has successfully completed a certified Motorcycle Safety Foundation rider course approved by the Department.

E. Except as otherwise provided by law, any person who lawfully possesses a valid Oklahoma driver license which is eligible for renewal shall be required to successfully complete a written examination, vision examination, and driving examination for a motorcycle as prescribed by the Department to be eligible for a motorcycle endorsement; provided, however, the Department may waive all such examinations until July 1, 2000, upon satisfactory proof that the applicant has regularly operated a motorcycle or motor-driven cycle for a minimum of two (2) years immediately preceding the application.

F. 1. Any person eighteen (18) years of age or older may apply for a restricted Class A, B or C commercial license. The Department, after the applicant has passed all parts of the examination for a Class D license and has successfully passed all parts of the examination for a Class A, B or C commercial license other than the driving examination, may issue to the applicant a

restricted driver license which shall entitle the applicant having immediate possession of the license to operate a Class A, B or C commercial motor vehicle upon the public highways solely for the purpose of behind-the-wheel training in accordance with rules promulgated by the Department.

2. This restricted driver license shall be issued for a period as provided in Section 6-115 of this title; provided, such restricted license may be suspended, revoked, canceled, or denied at the discretion of the Department for violation of the restrictions, for failing to give the required or correct information on the application, or for violation of any traffic laws of this state pertaining to the operation of a motor vehicle. Except as otherwise provided, the lawful possessor of a restricted license who has been issued a restricted license for a minimum of thirty (30) days may have the restriction requiring an accompanying driver removed by satisfactorily completing a driver's examination; provided, the removal of a restriction shall not authorize the operation of a Class A, B or C commercial motor vehicle if such operation is otherwise prohibited by law.

G. 1. The fee charged for an approved application for an original Oklahoma driver license or an approved application for the addition of an endorsement to a current valid Oklahoma driver license shall be assessed in accordance with the following schedule:

Class A Commercial License $25.00

Class B Commercial License	$15.00
Class C Commercial License	$15.00
Class D License	$ 4.00
Motorcycle Endorsement	$ 4.00

2. Notwithstanding the provisions of Section 1104 of this title, all monies collected from the fees charged for Class A, B and C commercial licenses pursuant to the provisions of this subsection shall be deposited in the General Revenue Fund of this state.

H. The fee charged for any failed examination shall be Four Dollars ($4.00) for any license classification. Notwithstanding the provisions of Section 1104 of this title, all monies collected from such examination fees pursuant to the provisions of this subsection shall be deposited in the General Revenue Fund of this state.

I. 1. In addition to any fee charged pursuant to the provisions of subsection G of this section, the fee charged for the issuance or renewal of an Oklahoma license which is not in a computerized image format shall be in accordance with the following schedule:

Class A Commercial License	$40.50
Class B Commercial License	$40.50
Class C Commercial License	$30.50
Class D License	$20.50

Notwithstanding the provisions of Section 1104 of this title, of each fee charged pursuant to this paragraph:

a. Five Dollars and fifty cents ($5.50) shall be deposited to the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of Title 63 of the Oklahoma Statutes, and

b. Five Dollars and seventy-five cents ($5.75) shall be deposited to the Department of Public Safety Computer Imaging System Revolving Fund to be used solely for the purpose of administration and maintenance of the computerized imaging system of the Department.

2. In addition to any fee charged pursuant to the provisions of subsection G of this section, the fee charged for the issuance or renewal of an Oklahoma license which is in a computerized image format shall be in accordance with the following schedule:

Class A Commercial License	$41.50
Class B Commercial License	$41.50
Class C Commercial License	$31.50
Class D License	$21.50

Notwithstanding the provisions of Section 1104 of this title, of each fee charged pursuant to the provisions of this paragraph:

a. Five Dollars and fifty cents ($5.50) shall be deposited to the Trauma Care Assistance Revolving Fund created in Section 330.97 of Title 63 of the Oklahoma Statutes, and

b. Six Dollars and seventy-five cents ($6.75) shall be deposited to the Department of Public Safety Computer Imaging System Revolving Fund to be used solely for the purpose of administration and maintenance of the computerized imaging system of the Department.

J. All original and renewal driver licenses shall expire as provided in Section 6-115 of this title.

K. Any person sixty-two (62) years of age or older during the calendar year of issuance of a Class D license or motorcycle endorsement shall be charged the following prorated fee:

Age 62	$11.25
Age 63	$ 7.50
Age 64	$ 3.75
Age 65	-0-

L. No person who has been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard and who has been certified by the United States Department of Veterans Affairs, its successor, or the Armed Forces of the United States to be a disabled veteran in receipt of compensation at the one-hundred-percent rate for a permanent disability sustained through military action or accident resulting from disease contracted while in such active service shall be charged a fee for the issuance or renewal of an Oklahoma driver license.

M. The Department of Public Safety and the Oklahoma Tax Commission are authorized to promulgate rules for the issuance and renewal of driver licenses authorized pursuant to the provisions of Sections 6-101 through 6-309 of this title. Applications, upon forms approved by the Department of Public Safety, for such licenses shall be handled by the motor license agents; provided, the Department of Public Safety is authorized to assume these duties in any county of this state. Each motor license agent accepting applications for driver licenses shall receive Two Dollars ($2.00) to be deducted from the total collected for each license or renewal application accepted. The two-dollar fee received by the motor license agent shall be used for operating expenses.

N. Notwithstanding the provisions of Section 1104 of this title and subsection M of this section and except as provided in subsections G and I of this section, the first Sixty Thousand Dollars ($60,000.00) of all monies collected pursuant to this section shall be paid by the Oklahoma Tax Commission to the State Treasurer to be deposited in the General Revenue Fund of the State Treasury.

The next Five Hundred Thousand Dollars ($500,000.00) of monies collected pursuant to this section shall be paid by the Tax Commission to the State Treasurer to be deposited each fiscal year under the provisions of this section to the credit of the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety

Restricted Revolving Fund for the purpose of the Statewide Law Enforcement Communications System. All other monies collected in excess of Five Hundred Sixty Thousand Dollars ($560,000.00) each fiscal year shall be apportioned as provided in Section 1104 of this title, except as otherwise provided in this section.

O. The Department of Public Safety shall implement a procedure whereby images displayed on licenses and identification cards issued pursuant to the provisions of Sections 6-101 through 6-309 of this title are maintained by the Department to create photographs or computerized images which may be used only:

1. By a law enforcement agency for purposes of criminal investigations, missing person investigations, or any law enforcement purpose which is deemed necessary by the Commissioner of Public Safety;

2. By the driver licensing agency of another state for its official purpose; and

3. As provided in Section 2-110 of this title.

The computer system and related equipment acquired for this purpose must conform to industry standards for interoperability and open architecture. The Department of Public Safety may promulgate rules to implement the provisions of this subsection.

SECTION 6. AMENDATORY 47 O.S. 2011, Section 6-212.3, is amended to read as follows:

Section 6-212.3. A. Whenever the records of the Department of Public Safety reflect the revocation of the driving privilege of a person as provided in subsection A of Section 6-205.1 of this title, the Department shall require the installation of an ignition interlock device, at the expense of the person, as provided in subsection D of this section, after the mandatory period of revocation, as prescribed by Section 6-205.1 of this title, for the following period, as applicable:

1. For a first revocation and if the person refused to submit to a test or tests, or had a blood or breath alcohol concentration of fifteen hundredths (0.15) or more, for a period of one and one-half (1 1/2) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer;

2. For a second revocation, for a period of four (4) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer; or

3. For a third or subsequent revocation, for a period of five (5) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer.

B. Whenever the records of the Department of Public Safety reflect a person is classified as an excessive user of alcohol or of a combination of alcohol and any other intoxicating substance, and

inimical to public safety, in accordance with rules promulgated by the Department, the person shall, upon request for reinstatement of driving privileges from revocation or suspension based upon the conviction or the status as an excessive user, provide proof of installation of an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the expense of the person, as provided in subsection D of this section.

C. The Department shall require, as a condition of reinstatement, the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the person to the Department; provided, a request shall not be accepted by the Department under the following circumstances:

1. When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle; or

2. When the person is employed by a relative who is within the first degree of consanguinity or who resides in the same household. The person shall comply with all provisions of law and rule regarding ignition interlock devices.

D. 1. The requirements of subsection A or B, as applicable, of this section shall be a prerequisite and condition for reinstatement of driving privileges, in addition to other conditions for driving privilege reinstatement provided by law or by rule of the Department. Upon request and eligibility, the Department shall issue a restricted driver license to the person, upon payment of a restricted driver license fee of Fifty Dollars ($50.00) and all other appropriate fees by the person. The restricted driver license and the driving record of the person shall indicate by an appropriate restriction that the person is only authorized to operate a vehicle upon which an ignition interlock is installed. If the person is operating a motor vehicle owned or leased by an employer who has not given permission for an ignition interlock device to be installed, the employer shall provide the person with a letter, on official letterhead of the employer, which the person shall carry in his or her immediate possession at all times when operating a motor vehicle and shall display for examination and inspection upon demand of a peace officer.

2. The restricted driver license fee authorized by this section shall be remitted to the State Treasurer to be credited to the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund. All monies accruing to the credit of the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund from restricted driver

license fees shall be budgeted and expended solely for the purpose of administering the provisions of this section.

3. The installation of an ignition interlock device, as required by this subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

E. Installation of an ignition interlock device pursuant to subsection A or B of this section shall run concurrently with a court order, if any, for installation of an ignition interlock device, or devices pursuant to the same conviction.

F. The person shall pay the monthly maintenance fee, not to exceed Twenty-five Dollars ($25.00) per month, for each ignition interlock device installed pursuant to this section. The person shall comply with all provisions of law regarding ignition interlock devices.

G. The ignition interlock device provider shall make available to the Department regular reports of violations, if any, for each ignition interlock device installed pursuant to this section.

H. Pursuant to Section 6-113 of this title, the Department may revoke or suspend the driving privileges of the person for reports from the provider which indicate attempts by the person to operate a motor vehicle when the person is under the influence of alcohol.

I. The Department shall promulgate rules necessary to implement and administer this section.

SECTION 7. AMENDATORY 47 O.S. 2011, Section 11-1007, is amended to read as follows:

Section 11-1007. A. 1. It shall be unlawful for any person to place or park a motor vehicle in any parking space that is designated and posted as a reserved area for the parking of a motor vehicle operated by or transporting a physically disabled person unless such person has applied for and been issued a detachable placard indicating physical disability under the provisions of Section 15-112 of this title, and such placard is displayed as provided in Section 15-112 of this title or in rules adopted pursuant thereto, or has applied for and been issued a physically disabled license plate pursuant to the provisions of Section 1135.1 or 1135.2 of this title, and such license plate is displayed pursuant to the provisions of the Oklahoma Vehicle License and Registration Act.

2. It shall also be unlawful for any person to place or park a motor vehicle, whether with or without a physically disabled placard or plate, in any disabled parking space access aisle, wheelchair ramp, wheelchair loading/unloading area or any portion thereof.

B. 1. Violation of these provisions shall be a misdemeanor and upon conviction the person shall be fined Five Hundred Dollars ($500.00). Provided, any person cited for a first offense of a violation of this section who has displayed a placard which has expired pursuant to paragraph 4 or 5 of subsection D of Section 15-

112 of this title shall be entitled to dismissal of such charge and shall not be required to pay the fine or court costs if the person presents to the court within thirty (30) days of the issuance of the citation a notice from the Department of Public Safety that the person has obtained a valid placard pursuant to the provisions of subsection D of Section 15-112 of this title. Fines collected pursuant to this section shall be distributed as follows:

a. eighty percent (80%) to the general fund of the municipality in which the citation was issued, subject to the provisions of subsection C of Section 15-115 of this title, and

b. twenty percent (20%) to a dedicated fund established by the Department of Public Safety for the development, implementation and maintenance of a system for the enforcement of the disability parking provisions of this title.

2. In addition, vehicles unlawfully parked in violation of these provisions shall be subject to immediate tow by a licensed tow truck operator at the request of the landowner or a duly appointed agent of the landowner, at the request of any person unable to lawfully gain access to or move their vehicle, at the request of any person unable to lawfully gain access to the area blocked by the unlawfully parked vehicle, or at the request of appropriate law-enforcement personnel. The owner of any vehicle unlawfully parked

in violation of these provisions shall pay any and all reasonable and necessary costs associated with towing and storage of the vehicle.

C. Upon the accumulation of the total necessary funds in the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund pursuant to subsection B of this section, the Department of Public Safety shall develop, implement, deploy and administer a database which identifies all persons to whom disabled parking permits have been issued. The database shall be available twenty-four (24) hours a day to any person authorized by statute to enforce disabled parking laws of this state, in order to verify the validity of a disabled parking permit and the person to whom it is issued.

SECTION 8. AMENDATORY 47 O.S. 2011, 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 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~~ Department of Public Safety Restricted 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. 2011, Section 11-1403, is amended to read as follows:

Section 11-1403. The Commissioner of Public Safety and the Oklahoma Transportation Authority are hereby authorized to enter into contracts and agreements for law enforcement on turnpikes. The Department of Public Safety is authorized to use any of its automotive and other equipment in policing turnpikes, and to charge the Authority for the use thereon on a rental basis to be agreed to by the Department and the Authority, and to perform such services in connection with policing turnpikes with its general personnel and equipment at such rates, salaries, expenses, and miscellaneous costs as may be agreed to by the Department and the Authority. It is the intent of this section that rental rates and other costs of policing turnpikes shall be determined on an average actual cost basis, and in accordance with salaries and expenses paid by the Department of Public Safety in its regular operations. Payments shall be made by

the Authority monthly and shall be remitted to the Department of Public Safety to be credited to the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund in the State Treasury. Such monies shall be expended for vehicles, equipment, personnel and other operating expenses for turnpike enforcement.

SECTION 10. AMENDATORY 47 O.S. 2011, Section 14-116, is amended to read as follows:

Section 14-116. A. The Commissioner of Public Safety shall charge a minimum permit fee of Forty Dollars ($40.00) for any permit issued pursuant to the provisions of Section 14-101 et seq. of this title. In addition to the permit fee, the Commissioner shall charge a fee of Ten Dollars ($10.00) for each thousand pounds in excess of the legal load limit. The Commissioner of Public Safety shall establish any necessary rules for collecting the fees.

B. The Department of Public Safety is authorized to establish an escrow account system for the payment of permit fees. Authorized motor carriers meeting established credit requirements may participate in the escrow account system for permits purchased from all size and weight permit offices in this state. Carriers not choosing to participate in the escrow account system shall be required to make payment of the required fee or fees upon purchase of each permit as required by law. All monies collected through the escrow account system shall be deposited to a special account of the

Department of Public Safety and placed in the custody of the State Treasurer. Proceeds from permits purchased using the escrow account system shall be distributed as provided for in subsection G of this section. However, fees collected through such accounts for the electronic transmission, transfer or delivery of permits, as provided for in Section 14-118 of this title, shall be credited to the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund.

C. 1. Application for permits shall be made a reasonable time in advance of the expected time of movement of such vehicles. For emergencies affecting the health or safety of persons or a community, permits may be issued for immediate movement.

2. Size and weight permit offices in all districts where applicable shall issue permits to authorize carriers by telephone during weekdays.

3. The Commissioner of Public Safety shall develop a system for provisional permits for authorized carriers which may be used in lieu of a regular permit for the movement of oversize and overweight loads when issued an authorization number by the Department of Public Safety. Such provisional permits shall include date of movement, general load description, estimated weight, oversize notation, route of travel, truck or truck-tractor license number, and permit authorization number.

D. No overweight permit shall be valid until all license taxes due the State of Oklahoma have been paid.

E. No permit violation shall be deemed to have occurred when an oversize or overweight movement is made pursuant to a permit whose stated weight or size exceeds the actual load.

F. The first deliverer of motor vehicles designated truck carriers or well service carriers manufactured in Oklahoma shall not be required to purchase an overweight permit when being delivered to the first purchaser.

G. Except as provided in Section ~~4~~ 14-122 of this ~~act~~ title, the first One Million Two Hundred Sixteen Thousand Dollars ($1,216,000.00) of proceeds from both the permit fees and the overweight permit fees imposed pursuant to subsection A of this section collected monthly shall be apportioned as provided in Section 1104 of this title. All proceeds collected from both the permit fees and the overweight permit fees imposed pursuant to subsection A of this section in excess of One Million Two Hundred Sixteen Thousand Dollars ($1,216,000.00) shall be deposited in the Weigh Station Improvement Revolving Fund as provided in Section 1167 of this title for the purpose set forth in that section and may be used for motor carrier permitting systems and motor carrier safety and enforcement.

SECTION 11. AMENDATORY 47 O.S. 2011, Section 14-118, is amended to read as follows:

Section 14-118. A. 1. Pursuant to such rules as may be prescribed by Oklahoma agencies of jurisdiction, Oklahoma motor carriers may engage in any activity in which carriers subject to the jurisdiction of the federal government may be authorized by federal legislation to engage. Provided further, the Transportation Commission shall formulate, for the State Trunk Highway System, including the National System of Interstate and Defense Highways, and for all other highways or portions thereof, rules governing the movement of vehicles or loads which exceed the size or weight limitations specified by the provisions of this chapter.

2. Such rules shall be the basis for the development of a system by the Commissioner of Public Safety for the issuance of permits for the movement of oversize or overweight vehicles or loads. Such system shall include, but not be limited to, provisions for duration, seasonal factors, hours of the day or days when valid, special requirements as to flags, flagmen and warning or safety devices, and other such items as may be consistent with the intent of this section. The permit system shall include provisions for the collection of permit fees as well as for the issuance of the permits by telephone, electronic transfer or such other methods of issuance as may be deemed feasible.

3. The Department of Public Safety is authorized to charge a fee of Two Dollars ($2.00) for each permit requested to be issued by facsimile machine or by any other means of electronic transmission,

transfer or delivery. The fee shall be in addition to any other fee or fees assessed for the permit. The fee shall be deposited in the State Treasury to the credit of the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund and the monies shall be expended by the Department solely for the purposes provided for in this chapter.

4. It is the purpose of this section to permit the movement of necessary overweight and oversize vehicles or loads consistent with the following obligations:

a. protection of the motoring public from potential traffic hazards,

b. protection of highway surfaces, structures, and private property, and

c. provision for normal flow of traffic with a minimum of interference.

B. The Transportation Commission shall prepare and publish a map of the State of Oklahoma showing by appropriate symbols the various highway structures and bridges in terms of maximum size and weight restrictions. This map shall be titled "Oklahoma Load Limit Map" and shall be revised periodically to maintain a reasonably current status and in no event shall a period of two (2) years lapse between revisions and publication of same. Provided, further, the Secretary of the Department of Transportation shall prepare and publish a map of the State of Oklahoma showing the advantages of

this state as a marketing, warehousing and distribution network center for motor transportation sensitive industries.

C. The Commissioner of Public Safety, or an authorized representative, shall have the authority, within the limitations formulated under provisions of this chapter, to issue, withhold or revoke special permits for the operation of vehicles or combinations of vehicles or loads which exceed the size or weight limitations of this chapter. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit.

D. It shall be permissible in the transportation of empty trucks on any road or highway to tow by use of saddlemounts; i.e., mounting the front wheels of one vehicle on the bed of another leaving the rear wheels only of such towed vehicle in contact with the roadway. One vehicle may be fullmounted on the towing or towed vehicles engaged in any driveaway or towaway operation. No more than three saddlemounts may be permitted in such combinations. The towed vehicles shall be securely fastened and operated under the applicable safety requirements of the United States Department of Transportation and such combinations shall not exceed an overall length of seventy-five (75) feet. Provided, a driveaway saddlemount with fullmount vehicle transporter combination may reach an overall

length of ninety-seven (97) feet on the National Network of Highways.

E. The Commissioner of Public Safety, upon application of any person engaged in the transportation of forest products in the raw state, which is defined to be tree-length logs moving from the forest directly to the mill, or upon application of any person engaged in the transportation of overwidth or overheight equipment used in soil conservation work, or upon application of any person engaged in the hauling for hire or for resale, of round baled hay with a total outside width of eleven (11) feet or less, shall issue an annual permit, upon payment of a fee of Twenty-five Dollars ($25.00) each year, authorizing the operation by such persons of such motor vehicle load lengths and widths upon the highways of this state except on the National System of Interstate and Defense Highways. Provided, however, the restriction on use of the National System of Interstate and Defense Highways shall not be applicable to persons engaged in the hauling of round baled hay with a total outside width of eleven (11) feet or less.

F. Farm equipment including, but not limited to, implements of husbandry as defined in Section 1-125 of this title shall be exempted from the requirement for special permits due to size. Such equipment may move on any highway, except those highways which are part of the National System of Interstate and Defense Highways, during the hours of darkness and shall be subject to the

requirements as provided in Section 12-215 of this title. In addition to those requirements, tractors pulling machinery over thirteen (13) feet wide must have two amber flashing warning lamps symmetrically mounted, laterally and widely spaced as practicable, visible from both front and rear, mounted at least thirty-nine (39) inches high.

G. Any rubber-tired road construction vehicle including rubber-tired truck cranes and special mobilized machinery either self-propelled or drawn carrying no load other than component parts safely secured to the machinery and its own weight, but which is overweight by any provisions of this chapter, shall be authorized to move on the highways of the State of Oklahoma. Movement of such vehicles shall be authorized on the Federal Interstate System of Highways only by special permit secured from the Commissioner of Public Safety or an authorized representative upon determination that the objectives of this section will be served by such a permit and that federal weight restrictions will not be violated. The special permit shall be:

1. A single-trip permit issued under the provisions of this section and Section 14-116 of this title; or

2. A special annual overweight permit which shall be issued for one calendar year period upon payment of a fee of Sixty Dollars ($60.00).

The weight of any such vehicle shall not exceed six hundred fifty (650) pounds multiplied by the nominal width of the tire. The vehicle shall be required to carry the safety equipment adjudged necessary for the health and welfare of the driving public. If any oversized vehicle does not come under the other limitations of the present laws, it shall be deemed that the same shall travel only between the hours of sunrise and sunset. The vehicle, being overweight but of legal dimension, shall be allowed continuous travel. The vehicles, except special mobilized machinery, shall be exempt from the laws of this state relating to motor vehicle registration, licensing or other fees or taxes in lieu of ad valorem taxes.

H. 1. When such machinery has a width greater than eight and one-half (8 1/2) feet, or a length, exclusive of load, of forty-five (45) feet, or a height in excess of thirteen and one-half (13 1/2) feet, then the permit may restrict movement to a fifty-mile radius from an established operating base, and may designate highways to be traveled, hours of travel and when flagmen may be required to precede or follow the equipment.

2. Possession of a permit shall in no way be construed as exempting such equipment from the authority of the Director of the Department of Transportation to restrict use of particular highways, nor shall it exempt owners or operators of such equipment from the responsibility for damage to highways caused by movement of the

equipment. Nothing in this subsection shall apply to machinery used in highway construction or road material production.

3. Upon the issuance of a special mobilized machinery driveaway permit as provided in this subsection, special mobilized machinery manufactured in Oklahoma shall be permitted to move upon the highways of this state from the place of manufacture to the state line for delivery and exclusive use outside the state, and may be temporarily returned to Oklahoma for modification and repair, with subsequent movement back out of the state. Special driveaway permits for such movements shall be issued by the Commissioner of Public Safety, who may act through designated agents, upon the payment of a fee in the amount of Fifteen Dollars ($15.00) for each movement.

4. The size of the special mobilized machinery shall not be such as to create a safety hazard in the judgment of the Commissioner of Public Safety. Permits for such special mobilized machinery shall specify a maximum permissible road speed of sixty (60) miles per hour, designate safety equipment to be carried and may exclude use of highways of the interstate system.

5. When such equipment has a width greater than eight and one-half (8 1/2) feet, or a length exclusive of load of forty-five (45) feet, or a height in excess of thirteen and one-half (13 1/2) feet, the permit may designate highways to be traveled, hours of travel and when flagmen may be required to precede or follow the equipment.

6. Possession of a special driveaway permit shall in no way be construed as exempting such equipment from the authority of the Director of the Department of Transportation to restrict use of particular highways, nor shall it exempt the owners or operators of such equipment from the responsibility for damage to highways caused by the movement of such equipment.

SECTION 12. AMENDATORY 47 O.S. 2011, Section 14-120.2, is amended to read as follows:

Section 14-120.2. A. Every person required by the Oklahoma Department of Transportation, the Oklahoma Transportation Authority, or any federal agency or commission to have a law enforcement escort provided by the Oklahoma Highway Patrol Division of the Department of Public Safety for the transport of any oversized load or hazardous shipment by road or rail shall pay to the Department of Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this state.

B. If the Highway Patrol provides an escort to accompany the transport of an oversized load or hazardous shipment by road or rail at the request of any person that is not required to have a law enforcement escort pursuant to subsection A of this section, then the requestor shall pay to the Department of Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this state.

C. The Department of Public Safety shall adopt a schedule of fees necessary to implement this section.

D. All fees collected by the Department pursuant to this section shall be deposited to the credit of the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund.

SECTION 13. AMENDATORY 47 O.S. 2011, Section 230.9, is amended to read as follows:

Section 230.9. A. The transportation of any property in commerce, including hazardous materials or the transportation of passengers for compensation or for hire by bus, that is not in compliance with the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act or the rules issued pursuant thereto, is prohibited.

B. Pursuant to the provisions of this section and except as otherwise provided by subsection D of this section, any person who is determined by the Commissioner of Public Safety to have committed:

1. An act which is a violation of a recordkeeping requirement of this title or of any rule or regulation promulgated thereto or the Federal Motor Carrier Safety Act of 1984, such person shall be liable to the State of Oklahoma for an administrative penalty not to exceed One Hundred Dollars ($100.00) for each offense, provided that the total of all administrative penalties assessed against any

violator pursuant to this paragraph for all offenses related to any single violation shall not exceed Five Hundred Dollars ($500.00);

2. An act or acts other than recordkeeping requirements, which evidences a serious pattern of safety violations, as determined by the Commissioner, such person shall be liable to the State of Oklahoma for an administrative penalty not to exceed Two Hundred Dollars ($200.00) for each offense, provided the maximum fine for each pattern of safety violations shall not exceed One Thousand Dollars ($1,000.00). The Commissioner may consider present and prior offenses in determining a serious pattern of safety violations; or

3. An act or acts which evidences to the Commissioner, that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, such person shall be liable to the State of Oklahoma for an administrative penalty not to exceed One Thousand Dollars ($1,000.00) for each offense.

C. Each day of violation as specified in subsection B of this section shall constitute a separate single violation/offense.

D. Except for recordkeeping violations, no administrative penalty shall be assessed pursuant to the provisions of this section, against an employee of any person subject to the provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act for a violation unless the Commissioner

determines that such actions of the employee constituted gross negligence or reckless disregard for safety in which case such employee shall be liable for an administrative penalty not to exceed One Thousand Dollars ($1,000.00).

E. In determining the amount of any administrative penalty and the reasonable amount of time for abatement of the violation, the Commissioner shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation, and with respect to the person found to have committed the violation, the degree of culpability, history of prior offenses, effect on ability to continue to do business and such other matters as justice and public safety may require. In each case, the penalty shall be calculated to induce further compliance.

F. The Commissioner or his designated representative shall assess the amount of any administrative penalty, after notice and an opportunity for hearing, by written notice to the violator together with notice of findings in the case. An appeal therefrom may be made to the district court of Oklahoma County pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes.

G. An administrative penalty assessed by the Commissioner may be recovered:

1. In an action brought by the Attorney General on behalf of the State of Oklahoma. However, before referral to the Attorney

General, the administrative penalty may be compromised by the Commissioner;

2. By the Commissioner in the appropriate district court of the State of Oklahoma; or

3. By the Commissioner in an administrative hearing conducted by the Department of Public Safety.

H. The first One Hundred Thousand Dollars ($100,000.00) of the administrative penalties collected each fiscal year pursuant to the provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act shall be deposited in the General Revenue Fund of the State of Oklahoma. All other monies collected in excess of One Hundred Thousand Dollars ($100,000.00) each fiscal year shall be deposited to the credit of the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund for the purpose of administering the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act.

SECTION 14. AMENDATORY 47 O.S. 2011, Section 754.1, is amended to read as follows:

Section 754.1. A. The Department of Public Safety, prior to an administrative hearing for a revocation or denial arising under the provisions of Sections 751 through 754 or Section 761 of this title or under the provisions of Section 6-205.1 of this title, may modify the revocation or denial when it is determined by the Department that no other adequate means of transportation exists for the person

whose driving privilege has been revoked or denied; provided, any modification under this paragraph shall apply to Class D motor vehicles only.

B. As a prerequisite and condition of any modification, the person shall be required to have installed an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the person's own expense, upon every motor vehicle operated by the person. The Department shall require, as a condition of modification, the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the person to the Department; provided, a request shall not be accepted by the Department under the following circumstances:

1. When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle; or

2. When the person is employed by a relative who either is within the first degree of consanguinity or who resides in the same household.

The person shall comply with all provisions of law and rule regarding ignition interlock devices.

C. Upon the issuance of a modification order pursuant to this section or Section 755 of this title, or under the provisions of paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of subsection B of Section 6-205.1 of this title, for a violation of this title, the person shall pay a modification fee of One Hundred Seventy-five Dollars ($175.00) to the Department. For each modification fee collected pursuant to the provisions of this subsection, One Hundred Dollars ($100.00) shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury and Seventy-five Dollars ($75.00) shall be remitted to the State Treasurer to be credited to the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund. All monies accruing to the credit of the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund from modification fees shall be budgeted and expended solely for the purpose of administering the provisions of this section and Section 755 of this title.

D. The Board of Tests for Alcohol and Drug Influence shall promulgate such rules as are necessary to implement and administer the provisions of this subsection relating to ignition interlock devices and the providers of such devices.

SECTION 15. AMENDATORY 47 O.S. 2011, Section 953, is amended to read as follows:

Section 953. A. No operator shall be permitted nor shall any employee of any operator be permitted, allowed or caused to solicit business or make service calls without the operator first having obtained from the Department of Public Safety a license to operate a wrecker or towing service. The number of the license shall be displayed, in conformance with rules of the Department, on both sides of every wrecker vehicle operated by the wrecker or towing service.

B. The license fee required by this section shall be in lieu of the motor carrier filing fee as required in Section 165 of this title. No applicant for a wrecker license shall be required to prove public convenience and necessity, file notices, nor shall a public hearing be held. The fee for such license shall be One Hundred Dollars ($100.00), of which Ten Dollars ($10.00) shall be allocated to the Department for the administration of ~~Section 951 et seq. of this title~~ the Nonconsensual Towing Act of 2011.

C. All licenses shall expire on the last day of the calendar year and may be renewed annually at a cost of Fifty Dollars ($50.00) upon application to the Department as prescribed by rule. No license fee shall be refunded in the event that the license is suspended or revoked.

D. The Department shall issue a letter of reprimand, cancel, suspend, revoke, or refuse to issue or renew the license of an operator when it finds the licensee or applicant has not complied

with or has violated any of the provisions of ~~Section 951 et seq. of this title~~ the Nonconsensual Towing Act of 2011, or any rules adopted by the Department. A suspension or revocation shall be for a period of time deemed appropriate by the Department for the violation. Any canceled, suspended, or revoked license shall be returned to the Department by the operator, and the operator shall not be eligible to apply for another license until the period of suspension or revocation has elapsed.

E. The provisions of the Oklahoma Administrative Procedures Act are expressly made applicable to ~~Section 951 et seq. of this title~~ the Nonconsensual Towing Act of 2011.

F. In any civil action to enforce the equal application of the alternation or rotation of wrecker or towing services regulated by a political subdivision of the state, the prevailing party shall be allowed attorney fees determined by the court, to be taxed and collected as costs.

G. Fees collected pursuant to the provisions of this section shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury except as provided by subsection H of this section.

H. Fees allocated to the Department by this section shall be deposited in the ~~Department of Public Safety Revolving Fund~~ Department of Public Safety Restricted Revolving Fund.

SECTION 16. AMENDATORY 63 O.S. 2011, Section 2-508, is amended to read as follows:

Section 2-508. A. Except as otherwise provided, all property described in paragraphs 1 and 2 of subsection A of Section 2-503 of this title which is seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act shall be destroyed. The destruction shall be done by or at the direction of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OSBNDD), who shall have the discretion prior to destruction to preserve samples of the substance for testing. In any county with a population of four hundred thousand (400,000) or more according to the latest Federal Decennial Census, there shall be a located site, approved by the OSBNDD, for the destruction of the property. Any such property submitted to the OSBNDD which it deems to be of use for investigative training, educational, or analytical purposes may be retained by the OSBNDD in lieu of destruction.

B. 1. With respect to controlled dangerous substances seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, municipal police departments, sheriffs, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control Commission, the Oklahoma Highway Patrol, and the Oklahoma State Bureau of Investigation shall have the authority to destroy seized controlled dangerous substances when the amount seized in a single incident exceeds ten (10) pounds. The destroying agency shall:

a. photograph the seized substance with identifying case numbers or other means of identification,

b. prepare a report describing the seized substance prior to the destruction,

c. retain at least one (1) pound of the substance randomly selected from the seized substance for the purpose of evidence, and

d. obtain and retain samples of the substance from enough containers, bales, bricks, or other units of substance seized to establish the presence of a weight of the substance necessary to establish a violation of the Trafficking in Illegal Drugs Act pursuant to subsection C of Section 2-415 of this title, if such a weight is present. If such weight is not present, samples of the substance from each container, bale, brick or other unit of substance seized shall be taken. Each sample taken pursuant to this section shall be large enough for the destroying agency and the defendant or suspect to have an independent test performed on the substance for purposes of identification.

2. If a defendant or suspect is known to the destroying agency, the destroying agency shall give at least seven (7) days' written

notice to the defendant, suspect or counsel for the defendant or suspect of:

a. the date, the time, and the place where the photographing will take place and notice of the right to attend the photographing, and

b. the right to obtain samples of the controlled dangerous substance for independent testing and use as evidence.

3. The written notice shall also inform the defendant, suspect or counsel for the defendant or suspect that the destroying agency must be notified in writing within seven (7) days from receipt of the notice of the intent of the suspect or defendant to obtain random samples and make arrangements for the taking of samples. The samples for the defendant or suspect must be taken by a person licensed by the Drug Enforcement Administration. If the defendant or counsel for the defendant fails to notify the destroying agency in writing of an intent to obtain samples and fails to make arrangements for the taking of samples, a sample taken pursuant to subparagraph d of paragraph 1 of this subsection shall be made available upon request of the defendant or suspect.

The representative samples, the photographs, the reports, and the records made under this section and properly identified shall be admissible in any court or administrative proceeding for any

purposes for which the seized substance itself would have been admissible.

C. All other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, the Office of the Attorney General, or a district attorney may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the agency or district attorney, the agency or district attorney shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court except for laboratory equipment which may be forfeited when no longer needed in connection with litigation, unless the property is perishable. The Director or Commissioner of the agency, the Attorney General, or district attorney shall file a petition in the district court of Oklahoma County or in the case of a district attorney, the petition shall be filed in a county within the jurisdiction of the district attorney requesting the authority to:

1. Conduct a sale of the property; or

2. Convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public

Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, the Office of the Attorney General, or to the district attorney's office for the purposes provided for in subsection J, K or L of this section.

The Director, Commissioner, Attorney General or district attorney shall attach to the petition:

a. a list describing the property, including all identifying numbers and marks, if any,

b. the date the property came into the possession of the agency or district attorney, and

c. the name and address of the owner, if known.

For any item having an apparent value in excess of One Hundred Dollars ($100.00), but less than Five Hundred Dollars ($500.00), the notice of the hearing of the petition for the sale of the property, except laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, shall be given to every known owner, as set forth in the petition, by first-class mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. An affidavit of notice being sent shall be filed with the court by a representative of the agency, the Director or Commissioner of the agency, the Attorney General or district attorney. For items in excess of Five Hundred

Dollars ($500.00), a notice of the hearing of the petition for the sale of said property shall be delivered to every known owner as set forth in the petition by certified mail. Notice of a hearing on a petition for forfeiture or sale of laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the Uniform Controlled Dangerous Substances Act shall not be required.

The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director, Commissioner, Attorney General, or district attorney to donate the property pursuant to subsection J, K or L of this section, to sell the property at a public auction to the highest bidder, or to convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General for the purposes provided for in subsection J, K or L of this section after at least ten (10) days of notice has been given by publication in one issue of a legal newspaper of the

county. If the property is offered for sale at public auction and no bid is received that exceeds fifty percent (50%) of the value of the property, such value to be announced prior to the sale, the Director, Commissioner, Attorney General, or district attorney may refuse to sell the item pursuant to any bid received. The Director, Commissioner, Attorney General, or district attorney shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased.

D. The money received from the sale of property by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be used for general drug enforcement purposes. These funds shall be transferred to the Bureau of Narcotics Revolving Fund established pursuant to Section 2-107 of this title or in the case of a district attorney, the revolving fund provided for in paragraph 3 of subsection L of Section 2-506 of this title.

E. At the request of the Department of Public Safety, the district attorney or a designee of the district attorney may conduct any forfeiture proceedings as described in Section 2-503 of this title on any property subject to forfeiture as described in subsection A, B or C of Section 2-503 of this title. The money received from the sale of property by the Department of Public Safety shall be deposited in the ~~Department of Public Safety~~

~~Revolving Fund~~ Department of Public Safety Restricted Revolving Fund and shall be expended for law enforcement purposes.

F. The money received from the sale of property by the Alcoholic Beverage Laws Enforcement Commission shall be deposited in the General Revenue Fund of the state.

G. The money received from the sale of property from the Oklahoma State Bureau of Investigation shall be deposited in the OSBI Revolving Fund and shall be expended for law enforcement purposes.

H. The Director of the Oklahoma Department of Corrections shall make a return of the sale and when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. Twenty-five percent (25%) of the money received from the sale shall be disbursed to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education. The remaining seventy-five percent (75%) shall be deposited in the Department of Corrections Revolving Fund to be expended for equipment for probation and parole officers and correctional officers.

I. The money received from the sale of property from the Office of the Attorney General shall be deposited in the Attorney General Law Enforcement Revolving Fund and shall be expended for law

enforcement purposes. The Office of the Attorney General may enter into agreements with municipal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section.

J. Any property, including but not limited to uncontaminated laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, upon a court order, may be donated for classroom or laboratory use by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma Department of Public Safety, district attorney, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Department of Corrections, or the Office of the Attorney General to any public secondary school or technology center school in this state or any institution of higher education within The Oklahoma State System of Higher Education.

K. Any vehicle or firearm which has come into the possession and title vested in the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, or the Office of the Attorney General, may be transferred, donated or offered for lease to any sheriff's office, tribal law enforcement agency, campus police department pursuant to the provisions of the Oklahoma Campus

Security Act, or police department in this state on an annual basis to assist with the enforcement of the provisions of the Uniform Controlled Dangerous Substances Act. Each agency shall promulgate rules, regulations and procedures for leasing vehicles and firearms. No fully automatic weapons will be subject to the leasing agreement. All firearms leased may be utilized only by C.L.E.E.T. certified officers who have received training in the type and class of weapon leased. Every lessee shall be required to submit an annual report to the leasing agency stating the condition of all leased property. A lease agreement may be renewed annually at the option of the leasing agency. Upon termination of a lease agreement, the property shall be returned to the leasing agency for sale or other disposition. All funds derived from lease agreements or other disposition of property no longer useful to law enforcement shall be deposited in the agency's revolving fund<u>, or in the case of the Department of Public Safety, the Department of Public Safety Restricted Revolving Fund,</u> and shall be expended for law enforcement purposes.

L. Before disposing of any property pursuant to subsections C through I of this section, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State Bureau of Investigation, the Department of Corrections, the Office of the Attorney General, or a district attorney may transfer or

donate the property to another state agency, tribal law enforcement agency, or school district for use upon request. In addition to the provisions of this section, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may transfer or donate property for any purpose pursuant to Section 2-106.2 of this title. The agencies and any district attorney that are parties to any transfer of property pursuant to this subsection shall enter into written agreements to carry out any such transfer of property. Any such agreement may also provide for the granting of title to any property being transferred as the parties deem appropriate. If the transfer of property is to a school district, a written agreement shall be entered into with the superintendent of the school district. No weapons may be transferred to a school district except as provided for in subsection K of this section.

SECTION 17. This act shall become effective July 1, 2012.

SECTION 18. 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 2-22-12 - DO PASS, As Amended and Coauthored.