

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 HOUSE BILL 1777

 By: Conley

7 AS INTRODUCED

8 An Act relating to toxicology testing laboratories;
9 amending 47 O.S. 2011, Section 759, as last amended
10 by Section 1, Chapter 125, O.S.L. 2015 (47 O.S. Supp.
11 2020, Section 759), which relates to the Board of
12 Tests for Alcohol and Drug Influence; modifying
13 entities; and providing an effective date.

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

14 SECTION 1. AMENDATORY 47 O.S. 2011, Section 759, as last
15 amended by Section 1, Chapter 125, O.S.L. 2015 (47 O.S. Supp. 2020,
16 Section 759), is amended to read as follows:

17 Section 759. A. There is hereby re-created, to continue until
18 July 1, 2022, in accordance with the provisions of the Oklahoma
19 Sunset Law, the Board of Tests for Alcohol and Drug Influence to be
20 composed of the following members beginning July 1, 2015:

21 1. The Dean of the Oklahoma State University College of
22 Osteopathic Medicine, or a designee;

23 2. The Dean of the University of Oklahoma College of Medicine,
24 or a designee;

1 3. The Commissioner of Public Safety, or a designee;

2 4. The Director of the Oklahoma State Bureau of Investigation,
3 or a designee;

4 5. The State Commissioner of Health, or a designee;

5 6. The Director of the Council on Law Enforcement Education and
6 Training, or a designee;

7 7. One certified peace officer who is a member of a local law
8 enforcement agency selected by the Oklahoma Sheriffs and Peace
9 Officers Association; and

10 8. One person selected by the Oklahoma Association of Chiefs of
11 Police.

12 Members shall serve without pay other than reimbursement of
13 necessary and actual expenses as provided in the State Travel
14 Reimbursement Act. Each member shall receive an appointment in
15 writing which shall become a permanent part of the records of the
16 Board. The chair and vice-chair shall be elected from the
17 membership of the Board every two (2) years. The Board is
18 authorized to appoint a State Director of Tests for Alcohol and Drug
19 Influence and other employees, including, but not limited to,
20 persons to conduct training and provide administrative assistance as
21 necessary for the performance of its functions, subject to available
22 funding and authorized full-time equivalent employee limitations.
23 The Board may expend appropriated funds for purposes consistent with
24 Sections 751 through 761 of this title and Sections 301 through 308

1 of Title 3 of the Oklahoma Statutes. The Legislature shall
2 appropriate funds to the Department of Public Safety for the support
3 of the ~~Board of Tests For Alcohol and Drug Influence~~ Board of Tests
4 for Alcohol and Drug Influence and its employees, if any. Upon the
5 transfer of any employees from the Alcohol Drug Countermeasures Unit
6 of the Department of Public Safety to the ~~Board of Tests For Alcohol~~
7 ~~and Drug Influence~~ Board of Tests for Alcohol and Drug Influence on
8 July 1, 2003, all funds of the Unit appropriated and budgeted shall
9 be transferred to the Board, and may be budgeted and expended to
10 support the functions and personnel of the Board.

11 B. Collection and analysis of a person's blood, breath, saliva
12 or urine, to be considered valid and admissible in evidence, whether
13 performed by or at the direction of a law enforcement officer or at
14 the request of the tested person, shall have been performed in
15 compliance with the rules adopted by the Board of Tests for Alcohol
16 and Drug Influence and by an individual possessing a valid permit
17 issued by the Board for this purpose or shall have been performed by
18 a laboratory accredited in Toxicology by ~~the American Society of~~
19 ~~Crime Laboratory Directors/Laboratory Accreditation Board~~
20 ~~(ASCLD/LAB)~~ an accrediting body as described in Section 150.37 of
21 Title 74 of the Oklahoma Statutes or accredited by the American
22 Board of Forensic Toxicology (ABFT).

23 C. The Board of Tests for Alcohol and Drug Influence is
24 authorized to approve laboratories for the analysis, provided by the

1 provisions of this title, of specimens of blood, breath, saliva and
2 urine, and to administer a program for regular monitoring of such
3 laboratories. The Board is authorized to prescribe uniform
4 standards and conditions for, and to approve satisfactory methods,
5 procedures, techniques, devices, equipment and records for tests and
6 analyses and to prescribe and approve the requisite education and
7 training for the performance of such tests and analyses. The Board
8 shall establish standards for and ascertain the qualifications and
9 competence of individuals to administer and conduct such tests and
10 analyses, and to issue permits to laboratories and to individuals
11 which shall be subject to suspension or revocation at the discretion
12 of the Board. The Board is authorized to prescribe uniform
13 standards, conditions, methods, procedures, techniques, devices,
14 equipment and records for the collection, handling, retention,
15 storage, preservation and delivery of specimens of blood, breath,
16 saliva and urine obtained for the purpose of determining the alcohol
17 concentration thereof or the presence or concentration of any other
18 intoxicating substance therein. The Board may take such other
19 actions as may be reasonably necessary or appropriate to effectuate
20 the purposes of Sections 751 through 761 of this title and Sections
21 301 through 308 of Title 3 of the Oklahoma Statutes, and may adopt,
22 amend and repeal such other rules consistent with this chapter as
23 the Board shall determine proper. Laboratories accredited in
24 Toxicology by ~~the American Society of Crime Laboratory~~

1 ~~Directors/Laboratory Accreditation Board (ASCLD/LAB)~~ an accrediting
2 body as described in Section 150.37 of Title 74 of the Oklahoma
3 Statutes or accredited by the American Board of Forensic Toxicology
4 (ABFT) are exempt from the provisions of this subsection.

5 D. The Board shall promulgate rules adopting uniform standards
6 and conditions and rules approving devices, equipment, methods,
7 procedures, techniques, and records for screening tests administered
8 for the purpose of determining the presence or concentration of
9 alcohol or any other intoxicating substance in a person's blood,
10 breath, saliva or urine. Such screening tests shall be performed in
11 compliance with the rules adopted by the Board of Tests for Alcohol
12 and Drug Influence.

13 E. The Board may set rules and charge appropriate fees for
14 operations incidental to its required duties and responsibilities.

15 F. There is hereby created in the State Treasury a revolving
16 fund for the Board of Tests for Alcohol and Drug Influence to be
17 designated the "Board of Tests for Alcohol and Drug Influence
18 Revolving Fund". The fund shall be a continuing fund, not subject
19 to fiscal year limitations, and shall consist of monies received
20 pursuant to the provisions of subsection E of this section and any
21 funds previously deposited in the Board of Tests for Alcohol and
22 Drug Influence Revolving Fund. All monies accruing to the credit of
23 the fund are hereby appropriated and may be budgeted and expended by
24 the Board of Tests for Alcohol and Drug Influence for operating

1 expenses of the Board. Expenditures from the funds shall be made
2 upon warrants issued by the State Treasurer against claims filed as
3 prescribed by law with the Director of the Office of Management and
4 Enterprise Services for approval and payment.

5 G. The provisions of subsections B and C of this section shall
6 be retroactive.

7 SECTION 2. This act shall become effective November 1, 2021.
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9 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
10 SUBSTANCES, dated 02/11/2021 - DO PASS.
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