

# An Act

ENROLLED SENATE  
BILL NO. 1372

By: Brecheen and Ivester of the  
Senate

and

Echols, Bennett and Ritze  
of the House

An Act relating to the Department of Public Safety; amending 47 O.S. 2011, Sections 2-105, as amended by Section 161, Chapter 304, O.S.L. 2012 and 2-117 (47 O.S. Supp. 2013, Section 2-105), which relate to personnel of the Highway Patrol Division and powers and duties of the Department of Public Safety; deleting certain ranks within the Communications Division; modifying qualification requirements for commissioned officer positions; updating language; clarifying powers and duties of officers; providing an effective date; and declaring an emergency.

SUBJECT: Department of Public Safety personnel requirements

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-105, as amended by Section 161, Chapter 304, O.S.L. 2012 (47 O.S. Supp. 2013, Section 2-105), is amended to read as follows:

Section 2-105. A. The Commissioner of Public Safety, subject to the Oklahoma Personnel Act, shall appoint:

1. A Chief of the Oklahoma Highway Patrol Division with the rank of Colonel, Deputy Chiefs of the Oklahoma Highway Patrol

Division with the rank of Lieutenant Colonel, and subordinate officers and employees of the Oklahoma Highway Patrol Division, including Majors, Captains, Lieutenants, and Highway Patrolmen with the rank of Trooper, who shall comprise the Oklahoma Highway Patrol Division of the Department of Public Safety; provided, any officer appointed to a commissioned position prescribed in this paragraph which is unclassified pursuant to Section 840-5.5 of Title 74 of the Oklahoma Statutes shall have a right of return to the highest previously held classified commissioned position within the Highway Patrol Division of the Department of Public Safety without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

2. A Captain, Lieutenants, and Patrolmen who shall comprise the Marine Enforcement Section of the Oklahoma Highway Patrol Division of the Department of Public Safety;

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

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

B. 1. The Commissioner, when appointing commissioned officers and employees to the positions set out in subsection A of this section, shall determine, in consultation with the Director of the Office of Management and Enterprise Services, minimum qualifications and shall select such officers and employees only after examinations to determine their physical and mental qualifications for such positions. The content of the examinations shall be prescribed by the Commissioner, and all such appointees shall satisfactorily complete a course of training in operations and procedures as prescribed by the Commissioner.

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

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

(1) an associate's degree or a minimum of sixty-two (62) successfully completed semester hours from a an accredited college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers as denoted in the Database of Accredited Postsecondary Institutions and Programs provided by the U.S. Department of Education and whose hours are transferable between such recognized institutions, and

(2) ~~for any person appointed to the Oklahoma Highway Patrol Division on or after July 1, 2014:~~

~~(a) a bachelor's degree from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions, or~~

~~(b) an associate's degree or a minimum of sixty-two (62) successfully completed semester hours from a college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers and whose hours are transferable between such recognized institutions, and:~~

~~i. at least two (2) years' experience as a law enforcement officer certified by the Council on Law Enforcement~~

~~Education and Training (C.L.E.E.T.) or by the equivalent state agency in another state or by any law enforcement agency of the federal government, or~~

- ~~ii. at least two (2) years of honorable military service in an active or reserve component of the United States Armed Forces.~~

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

shall have successfully completed thirty-two (32) semester hours from an accredited college or university as denoted in the Database of Accredited Postsecondary Institutions and Programs provided by the U.S. Department of Education and whose hours are transferable between such recognized institutions and have received an honorable discharge after three (3) years of active military or reserve military service, or

- (3) shall have successfully completed thirty-two (32) semester hours from an accredited college or university as denoted in the Database of Accredited Postsecondary Institutions and Programs provided by the U.S. Department of Education and whose hours are transferable between such recognized institutions, and received an honorable discharge in any active military or reserve military service,

- b. applicants with prior military service, shall receive up to ten (10) semester hours for each year of honorable service in any active military or reserve military service up to a maximum of three (3) years or thirty (30) semester hours, and

c. for any such position in the Communications Division, a person shall be at least twenty (20) years of age and shall possess a high school diploma or General Educational Development equivalency certificate; shall possess either six (6) months of previous experience as a dispatcher or fifteen (15) successfully completed semester hours from a an accredited college or university which is recognized by and accepted by the American Association of Collegiate Registrars and Admissions Officers as denoted in the Database of Accredited Postsecondary Institutions and Programs provided by the U.S. Department of Education and whose hours are transferable between such recognized institutions.

3. No commissioned officer of the Department shall, while in such position, be a candidate for any political office or take part in or contribute any money or other thing of value, directly or indirectly, to any political campaign or to any candidate for public office. Anyone convicted of violating the provisions of this paragraph shall be guilty of a misdemeanor and shall be punished as provided by law.

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

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

C. 1. Upon initial appointment to the position of Cadet Highway Patrolman or Probationary Communications Dispatcher, the

appointed employee shall be required to serve an initial probationary period of twelve (12) months. The Commissioner may extend the probationary period for up to three (3) additional months provided that the employee and the Office of Management and Enterprise Services are notified in writing as to such action and the reasons ~~therefor~~ thereof. During such probationary period, the employee may be terminated at any time and for any reason at the discretion of the Commissioner. Retention in the service after expiration of the initial probationary period shall entitle such employee to be classified as a permanent employee and the employee shall be so classified. No permanent employee may be discharged or removed except as provided for in this section.

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

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

2. Whenever such charges are preferred, the Commissioner may suspend the accused pending the hearing and final determination of such charges. If the charges are not sustained in whole or in part, the accused shall be entitled to pay during the period of such suspension. If the charges are sustained in whole or in part, the accused shall not receive any pay for the period of such suspension.

3. Commissioned officers of the Department of Public Safety are not entitled to appeal intra-agency transfer to the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act unless transfer is in violation of Section 840-2.5 or 840-2.9 of Title 74 of the Oklahoma Statutes.

4. The Department of Public Safety shall follow the uniform grievance procedure established and adopted by the Office of Management and Enterprise Services for permanent classified

employees, except for those employees who are commissioned officers of the Department. The Department of Public Safety shall establish and adopt a proprietary grievance procedure for commissioned officers of the Department which is otherwise in compliance with the provisions of Section 840-6.2 of Title 74 of the Oklahoma Statutes.

E. 1. The Commissioner is hereby authorized to purchase and issue uniforms and necessary equipment for all commissioned officers of the Highway Patrol Division of the Department. All uniforms and equipment shall be used only in the performance of the official duties of such officers and shall remain the property of the Department, except as provided in Section 2-150 of this title.

2. Each commissioned officer of the Highway Patrol Division of the Department of Public Safety shall be entitled to reimbursement of expenses pursuant to the State Travel Reimbursement Act while away from the assigned area of the officer as designated by the Chief of the Oklahoma Highway Patrol Division, when such expense is incurred in the service of the state.

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

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

- a. one (1) year of experience in any combination:
  - (1) as Commissioner of Public Safety,
  - (2) as Assistant Commissioner of Public Safety, or
  - (3) as Assistant Chief,

- b. two (2) years of experience in any combination:
  - (1) as Deputy Chief or higher rank, or
  - (2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Major or higher rank,
- c. four (4) years of experience in any combination:
  - (1) as Major or higher rank, or
  - (2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Captain or higher rank, or
- d. six (6) years of experience in any combination:
  - (1) as Captain or higher rank, or
  - (2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as First Lieutenant or higher rank.

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

- a. one (1) year of experience in any combination:
  - (1) as Commissioner of Public Safety,
  - (2) as Assistant Commissioner of Public Safety, or
  - (3) as Colonel,
- b. two (2) years of experience in any combination:
  - (1) as Major or higher rank, or

- (2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Captain or higher rank, or
- c. four (4) years of experience in any combination:
  - (1) as Captain or higher rank, or
  - (2) if the experience was prior to ~~the effective date of this act~~ April 21, 2006, as Highway Patrol First Lieutenant or higher rank.

G. The Commissioner of Public Safety is hereby authorized to send employees of the Department of Public Safety to schools such as Northwestern University Center for Public Safety, Southern Police Institute, the FBI National Academy, the Institute of Police Technology and Management, or to any other schools of similar training which would be conducive to improving the efficiency of the Oklahoma Highway Patrol Division and the Department of Public Safety. While an employee is attending a school, the Commissioner is authorized to permit the employee to use a state-owned vehicle and to use a fuel-purchasing card for any expenses related to the operation of the vehicle. In addition, while an employee is attending the FBI National Academy, a one-time expense allowance of Two Thousand Dollars (\$2,000.00) for uniforms, fees, travel, room and board, and other related expenses shall be paid to the employee by the Department; provided, the employee shall not be further compensated through the State Travel Reimbursement Act, and, if any other agency reimburses the employee for any expenses, the reimbursement shall be given to the Department. All purchases made by the employee with the expense allowance shall be considered property of the employee.

H. 1. Any former commissioned officer of the Department whose separation from the Department was at such officer's own request and not a result of such officer's own actions contrary to the policy of the Department or was not as a result of the retirement of that officer from the Department may make application for reinstatement as a commissioned officer of the division or section of the Department in which such officer was previously employed, provided such reinstated officer will be able to complete twenty (20) years of credited service by the time the reinstated officer reaches

sixty-two (62) years of age. The Commissioner may waive the requirements of possessing the number of semester hours or degree as required in subsection B of this section for any former commissioned officer making application for reinstatement as a commissioned officer of the Department. The Commissioner may require the applicant for reinstatement to attend selected courses of instruction, as prescribed by the Commissioner.

2. In the event of future hostilities wherein the Congress of the United States declares this nation in a state of war with a foreign nation, including military service brought about by the Vietnam War, any period of military service served by a commissioned officer of the Department shall be considered as continued service with such Department, provided such commissioned officer returns to duty with the Department within sixty (60) days after release from military service.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-117, is amended to read as follows:

Section 2-117. A. The Commissioner of Public Safety and each officer of the Department of Public Safety, as designated and commissioned by the Commissioner, are hereby declared to be peace officers of the State of Oklahoma and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of the state. Such officers shall have the powers and authority now and hereafter vested by law in other peace officers, including the right and power of search and seizure, except the serving or execution of civil process, and the right and power to investigate and prevent crime and to enforce the criminal laws of this state.

B. The In addition to the powers and authority prescribed in subsection A of this section, the officers of the Department shall have the following authority, responsibilities, powers and duties:

1. To enforce the provisions of this title and any other law regulating the operation of vehicles or the use of the highways, including, but not limited to, the Motor Carriers Act of this state, or any other laws of this state by the direction of the Governor;

2. To arrest without writ, rule, order or process any person detected by them in the act of violating any law of the state;

3. When the officer is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the jurisdiction of the Oklahoma Highway Patrol Division, to continue in pursuit of such violator or suspected violator into whatever part of the state may be reasonably necessary to effect the apprehension and arrest of the same, and to arrest such violator or suspected violator wherever the violator may be overtaken;

4. To assist in the location of stolen property, including livestock and poultry or the carcasses thereof, and to make any inspection necessary of any truck, trailer or contents thereof in connection therewith;

5. At all times to direct all traffic in conformance with law and, in the event of a fire, or other emergency, or to expedite traffic, or to insure safety, to direct traffic as conditions may require, notwithstanding the provisions of law;

6. To require satisfactory proof of ownership of the contents of any motor vehicle, including livestock, poultry or the carcasses thereof. In the event that the proof of ownership is not satisfactory, it shall be the duty of the officer to take the motor vehicle, driver, and the contents of the motor vehicle into custody and deliver the same to the sheriff of the county wherein the cargo, motor vehicle and driver are taken into custody;

7. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of this title, or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver license and the certificate of registration issued for the vehicle, if required to be carried in the vehicle pursuant to paragraph 3 of subsection A of Section 1113 of this title, and submit to an inspection of such vehicle, the license plates and certificate of registration thereon, if applicable, or to any inspection and test of the equipment of such vehicle;

8. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of

locating stolen vehicles and investigating the title and registration thereof;

9. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways and bench warrants issued for nonpayment of fines and costs for moving traffic violations;

10. To investigate and report traffic collisions on all interstate and defense highways and on all highways outside of incorporated municipalities, and may investigate traffic collisions within any incorporated municipality upon request of the local law enforcement agency, and to secure testimony of witnesses or of persons involved;

11. To investigate reported thefts of motor vehicles, trailers and semitrailers;

12. To stop and inspect any motor vehicle or trailer for such mechanical tests as may be prescribed by the Commissioner to determine the roadworthiness of the vehicle. Any vehicle which may be found to be unsafe for use on the highways may be ordered removed from said highway until such alterations or repairs have been made that will render said vehicle serviceable for use on the highway;

13. To stop and inspect the contents of all motor vehicles to ascertain whether or not the provisions of all general laws are being observed;

14. To enforce the laws of the state relating to the registration and licensing of motor vehicles;

15. To enforce the laws relating to the operation and use of vehicles on the highway;

16. To enforce and prevent, on the roads of the state highway system, the violation of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways;

17. To investigate and report to the Corporation Commission and the Oklahoma Tax Commission violation of their rules and the laws

governing the transportation of persons and property by motor transportation companies and all other motor carriers for hire;

18. To investigate and report violations of all laws relating to the collection of excise taxes on motor vehicle fuels;

19. To regulate the movement of traffic on the roads of the state highway system;

20. Whenever possible, to determine persons causing or responsible for the breaking, damaging, or destruction of any improved surfaced roadway, structure, sign, marker, guardrail, or any other appurtenance constructed or maintained by the Department of Transportation, and to arrest persons responsible ~~therefor~~ thereof and to bring them before the proper officials for prosecution;

21. To investigate incidents involving an employee of the Department, when such incidents are related to the performance of the duties of the employee; and

22. To initiate or assist in manhunts and fugitive apprehensions.

C. Whenever any person is arrested by a patrol officer for a traffic violation the provisions of Sections 16-101 through 16-114 of this title shall apply.

D. 1. Except as provided in this subsection, the powers and duties conferred on the Commissioner and officers of the Department of Public Safety shall not limit the powers and duties of sheriffs or other peace officers of the state or any political subdivision of the state.

2. The Oklahoma Highway Patrol Division shall have primary law enforcement authority respecting traffic-related offenses upon the National System of Interstate and Defense Highways, and may have special law enforcement authority on those portions of the federal-aid primary highways and the state highway system which are located within the boundaries and on the outskirts of a municipality, and designated by the Commissioner of Public Safety for such special law enforcement authority. As used in this subsection "outskirts of a

municipality" means and shall be determined by presence of the following factors:

- a. low land use density,
- b. absence of any school or residential subdivision requiring direct ingress or egress from the highway, and
- c. a scarcity of retail or commercial business abutting the highway.

3. The Commissioner may designate any portion of the National System of Interstate and Defense Highways, and those portions of the federal-aid primary highways and the state highway system which are located within the boundaries of and on the outskirts of a municipality for special traffic-related enforcement by the Oklahoma Highway Patrol Division and issue a written notice to any other law enforcement agency affected thereby. Upon receipt of such notice, the affected law enforcement agency shall not regulate traffic nor enforce traffic-related statutes or ordinances upon such designated portion of the National System of Interstate and Defense Highways or such designated portions of the federal-aid primary highways and the state highway system without prior coordination and written approval of the Commissioner.

E. 1. Any of the following persons may request the Commissioner to investigate the traffic-related enforcement practices of a municipal law enforcement agency whose jurisdiction includes portions of the federal-aid primary highways, the state highway system, or both located within the boundaries of and on the outskirts of the municipality:

- a. the district attorney in whose jurisdiction the municipality is located,
- b. a majority of the county commissioners, by resolution, of the county in which the municipality is located,
- c. the State Auditor and Inspector,
- d. the State Attorney General, or

- e. a state legislator in whose district the municipality is located.

2. The request shall state that the requesting party believes the enforcement practices are being conducted:

- a. within the boundaries of and on the outskirts of the municipality, and
- b. for the purpose of generating more than fifty percent (50%) of the revenue needed for the operation of the municipality.

3. Upon receipt of a request pursuant to this subsection, the Commissioner may investigate the traffic-related enforcement practices of the municipal law enforcement agency and the receipts and expenditures of the municipality. The law enforcement agency, the municipality, and the requesting party shall cooperate fully with the Commissioner in such an investigation. Upon the completion of the investigation, the Commissioner shall submit a report of the results of the investigation to the Attorney General, who shall make a determination within sixty (60) days of receipt of the report as to whether the enforcement practices of the municipal law enforcement agency are being conducted as provided in subparagraphs a and b of paragraph 2 of this subsection. Upon a determination that the enforcement practices are not being conducted in such a manner, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall take no action to make a designation as provided in paragraph 3 of subsection D of this section. Upon a determination that the enforcement practices are being conducted as provided in subparagraphs a and b of paragraph 2 of this subsection, the Attorney General shall notify the Commissioner in writing, and the Commissioner shall make the designation of special traffic-related enforcement as provided in paragraph 3 of subsection D of this section, which shall stay in force for such time as determined by the Commissioner. The Department of Public Safety shall adopt rules to uniformly implement the procedures for initiating, investigating and reporting to the Attorney General the results of a request under the provisions of this subsection and the criteria for determining the length of time

the designation of special traffic-related enforcement shall be in force.

F. Nothing in this section shall limit a member of the Oklahoma Highway Patrol Division from requesting assistance from any other law enforcement agency nor limit officers of such agency from rendering the requested assistance. The officer and the law enforcement agency responding to the request of the member of the Oklahoma Highway Patrol Division or sheriff's department shall have the same rights and immunities as are possessed by the Oklahoma Highway Patrol Division.

G. No state official shall have any power, right, or authority to command, order, or direct any commissioned law enforcement officer of the Department of Public Safety to perform any duty or service contrary to the provisions of this title or any other laws of this state.

SECTION 3. This act shall become effective July 1, 2014.

SECTION 4. 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.

Passed the Senate the 29th day of April, 2014.

Anthony Syta  
Presiding Officer of the Senate

Passed the House of Representatives the 3rd day of April, 2014.

Mike Jack  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 30<sup>th</sup>  
day of April, 20 14, at 4:42 o'clock P M.  
By: Audrey Lockwell

Approved by the Governor of the State of Oklahoma this 6<sup>th</sup>  
day of May, 20 14, at 2:11 o'clock P M.

Mary Fallin  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 6<sup>th</sup>  
day of May, 20 14, at 2:46 o'clock P M.  
By: Chris Benz