# An Act

ENROLLED HOUSE
BILL NO. 2822

By: Kendrix of the House

and

Bergstrom of the Senate

An Act relating to sunset; amending 47 O.S. 2021, Section 759, which relates to the Board of Tests for Alcohol and Drug Influence; re-creating the Board; modifying termination date; and declaring an emergency.

SUBJECT: Sunset

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 759, is amended to read as follows:

Section 759. A. There is hereby re-created, to continue until July 1, ~~2022~~ 2026, in accordance with the provisions of the Oklahoma Sunset Law, the Board of Tests for Alcohol and Drug Influence to be composed of the following members beginning July 1, 2015:

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

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

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

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

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

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

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

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

Members shall serve without pay other than reimbursement of necessary and actual expenses as provided in the State Travel Reimbursement Act. Each member shall receive an appointment in writing which shall become a permanent part of the records of the Board. The chair and vice-chair shall be elected from the membership of the Board every two (2) years. The Board is authorized to appoint a State Director of Tests for Alcohol and Drug Influence and other employees, including, but not limited to, persons to conduct training and provide administrative assistance as necessary for the performance of its functions, subject to available funding and authorized full-time equivalent employee limitations. The Board may expend appropriated funds for purposes consistent with Sections 751 through 761 of this title and Sections 301 through 308 of Title 3 of the Oklahoma Statutes. The Legislature shall appropriate funds to the Department of Public Safety for the support of the Board of Tests For Alcohol and Drug Influence and its employees, if any. Upon the transfer of any employees from the Alcohol Drug Countermeasures Unit of the Department of Public Safety to the Board of Tests For Alcohol and Drug Influence on July 1, 2003, all funds of the Unit appropriated and budgeted shall be transferred to the Board, and may be budgeted and expended to support the functions and personnel of the Board.

B. Collection of a person's blood to be considered valid and admissible in evidence, whether performed by or at the direction of a law enforcement officer or at the request of the tested person, shall have been performed by a person authorized to collect blood pursuant to the provisions of Section 752 of this title. Analysis of a person's blood to be considered valid and admissible in evidence, whether performed by or at the direction of a law enforcement officer or at the request of the tested person, shall have been performed by a laboratory accredited in accordance with ISO/IEC 17025 as defined in Section 150.37 of Title 74 of the Oklahoma Statutes.

C. Collection of a person's breath, to be considered valid and admissible in evidence:

1. Shall have been performed by an individual possessing a valid permit issued by the Board of Tests for Alcohol and Drug Influence for this purpose; and

2. Shall have been performed on a breath alcohol measurement device appearing on the most current conforming products list of such devices published by the U.S. Department of Transportation in the Federal Register, and utilizing a calibrating unit appearing on the most current conforming products list of such devices published by the U.S. Department of Transportation in the Federal Register;

3. Shall have been performed on a device maintained by the Board of Tests for Alcohol and Drug Influence; and

4. Shall have been performed in accordance with the operating procedure prescribed by the State Director of Tests or the Board of ~~Test~~ Tests for Alcohol and Drug Influence.

D. The Board is authorized to prescribe uniform standards and conditions for, and to approve satisfactory methods, procedures, techniques, devices, equipment and records for, tests and analyses and to prescribe and approve the requisite education and training for the performance of tests or analyses of breath to determine the breath alcohol concentration. The Board shall establish standards for and ascertain the qualifications and competence of individuals to administer tests and analyses of breath to determine the breath alcohol concentration, and to issue permits to individuals which shall be subject to suspension or revocation at the discretion of the Board. The Board is authorized to prescribe uniform standards, conditions, methods, procedures, techniques, devices, equipment and records for the collection, handling, retention, storage, preservation and delivery of specimens of blood, breath, saliva and urine obtained for the purpose of determining the alcohol concentration thereof or the presence or concentration of any other intoxicating substance therein. The Board may take such other actions as may be reasonably necessary or appropriate to effectuate the purposes of Sections 751 through 761 of this title and Sections 301 through 308 of Title 3 of the Oklahoma Statutes, and may adopt, amend and repeal such other rules consistent with this chapter as the Board shall determine proper. The Board is authorized to

delegate authority granted in this section to the State Director of Tests as it deems appropriate.

E. The Board shall promulgate rules adopting uniform standards and conditions and rules approving devices, equipment, methods, procedures, techniques, and records for screening tests administered for the purpose of determining the presence or concentration of alcohol or any other intoxicating substance in a person's blood, breath, saliva or urine. Such screening tests shall be performed in compliance with the rules adopted by the Board of Tests for Alcohol and Drug Influence. For purposes of this subsection, "screening test" means the use of devices, equipment, methods, procedures, techniques and records by law enforcement officers at roadside to assist in the development of probable cause.

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

G. There is hereby created in the State Treasury a revolving fund for the Board of Tests for Alcohol and Drug Influence to be designated the "Board of Tests for Alcohol and Drug Influence Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received pursuant to the provisions of subsection F of this section and any funds previously deposited in the Board of Tests for Alcohol and Drug Influence Revolving Fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Board of Tests for Alcohol and Drug Influence for operating expenses of the Board. Expenditures from the funds shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 2. It being immediately necessary for the preservation of the public peace, health or 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 House of Representatives the 9th day of March, 2023.

Presiding Officer of the House of Representatives

Passed the Senate the 19th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 20th day of April, 20 23, at 3:15 o'clock p. M.

By: [signature]

Approved by the Governor of the State of Oklahoma this 26th day of April, 20 23, at 1:21 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 26th day of April, 2023, at 2:41 o'clock P. M.

By: [signature]