

1 ENGROSSED HOUSE
2 BILL NO. 2822

By: Kendrix of the House

3 and

4 Bergstrom of the Senate

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

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

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

17 Section 759. A. There is hereby re-created, to continue until
18 July 1, ~~2022~~ 2026, 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 and its
4 employees, if any. Upon the transfer of any employees from the
5 Alcohol Drug Countermeasures Unit of the Department of Public Safety
6 to the Board of Tests For Alcohol and Drug Influence on July 1,
7 2003, all funds of the Unit appropriated and budgeted shall be
8 transferred to the Board, and may be budgeted and expended to
9 support the functions and personnel of the Board.

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

21 C. Collection of a person's breath, to be considered valid and
22 admissible in evidence:
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1 1. Shall have been performed by an individual possessing a
2 valid permit issued by the Board of Tests for Alcohol and Drug
3 Influence for this purpose; and

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

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

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

15 D. The Board is authorized to prescribe uniform standards and
16 conditions for, and to approve satisfactory methods, procedures,
17 techniques, devices, equipment and records for, tests and analyses
18 and to prescribe and approve the requisite education and training
19 for the performance of tests or analyses of breath to determine the
20 breath alcohol concentration. The Board shall establish standards
21 for and ascertain the qualifications and competence of individuals
22 to administer tests and analyses of breath to determine the breath
23 alcohol concentration, and to issue permits to individuals which
24 shall be subject to suspension or revocation at the discretion of

1 the Board. The Board is authorized to prescribe uniform standards,
2 conditions, methods, procedures, techniques, devices, equipment and
3 records for the collection, handling, retention, storage,
4 preservation and delivery of specimens of blood, breath, saliva and
5 urine obtained for the purpose of determining the alcohol
6 concentration thereof or the presence or concentration of any other
7 intoxicating substance therein. The Board may take such other
8 actions as may be reasonably necessary or appropriate to effectuate
9 the purposes of Sections 751 through 761 of this title and Sections
10 301 through 308 of Title 3 of the Oklahoma Statutes, and may adopt,
11 amend and repeal such other rules consistent with this chapter as
12 the Board shall determine proper. The Board is authorized to
13 delegate authority granted in this section to the State Director of
14 Tests as it deems appropriate.

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

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

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

19 SECTION 2. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 9th day of March, 2023.

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4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ___ day of _____, 2023.

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9 Presiding Officer of the Senate