

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2822

By: Kendrix of the House

and

Bergstrom of the Senate

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11 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

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

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

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

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

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

18 Members shall serve without pay other than reimbursement of
19 necessary and actual expenses as provided in the State Travel
20 Reimbursement Act. Each member shall receive an appointment in
21 writing which shall become a permanent part of the records of the
22 Board. The chair and vice-chair shall be elected from the
23 membership of the Board every two (2) years. The Board is
24 authorized to appoint a State Director of Tests for Alcohol and Drug

1 Influence and other employees, including, but not limited to,
2 persons to conduct training and provide administrative assistance as
3 necessary for the performance of its functions, subject to available
4 funding and authorized full-time equivalent employee limitations.
5 The Board may expend appropriated funds for purposes consistent with
6 Sections 751 through 761 of this title and Sections 301 through 308
7 of Title 3 of the Oklahoma Statutes. The Legislature shall
8 appropriate funds to the Department of Public Safety for the support
9 of the Board of Tests For Alcohol and Drug Influence and its
10 employees, if any. Upon the transfer of any employees from the
11 Alcohol Drug Countermeasures Unit of the Department of Public Safety
12 to the Board of Tests For Alcohol and Drug Influence on July 1,
13 2003, all funds of the Unit appropriated and budgeted shall be
14 transferred to the Board, and may be budgeted and expended to
15 support the functions and personnel of the Board.

16 B. Collection of a person's blood to be considered valid and
17 admissible in evidence, whether performed by or at the direction of
18 a law enforcement officer or at the request of the tested person,
19 shall have been performed by a person authorized to collect blood
20 pursuant to the provisions of Section 752 of this title. Analysis
21 of a person's blood to be considered valid and admissible in
22 evidence, whether performed by or at the direction of a law
23 enforcement officer or at the request of the tested person, shall
24 have been performed by a laboratory accredited in accordance with

1 ISO/IEC 17025 as defined in Section 150.37 of Title 74 of the
2 Oklahoma Statutes.

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

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

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

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

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

19 D. The Board is authorized to prescribe uniform standards and
20 conditions for, and to approve satisfactory methods, procedures,
21 techniques, devices, equipment and records for, tests and analyses
22 and to prescribe and approve the requisite education and training
23 for the performance of tests or analyses of breath to determine the
24 breath alcohol concentration. The Board shall establish standards

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

19 E. The Board shall promulgate rules adopting uniform standards
20 and conditions and rules approving devices, equipment, methods,
21 procedures, techniques, and records for screening tests administered
22 for the purpose of determining the presence or concentration of
23 alcohol or any other intoxicating substance in a person's blood,
24 breath, saliva or urine. Such screening tests shall be performed in

1 compliance with the rules adopted by the Board of Tests for Alcohol
2 and Drug Influence. For purposes of this subsection, "screening
3 test" means the use of devices, equipment, methods, procedures,
4 techniques and records by law enforcement officers at roadside to
5 assist in the development of probable cause.

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

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

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

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4 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES, dated
5 03/02/2023 - DO PASS, As Amended and Coauthored.

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