

1 **SENATE FLOOR VERSION**

2 April 12, 2023

3 ENGROSSED HOUSE  
4 BILL NO. 2822

By: Kendrix of the House

and

Bergstrom of the Senate

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

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

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

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

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

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

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

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

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

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

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

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

11 Members shall serve without pay other than reimbursement of  
12 necessary and actual expenses as provided in the State Travel  
13 Reimbursement Act. Each member shall receive an appointment in  
14 writing which shall become a permanent part of the records of the  
15 Board. The chair and vice-chair shall be elected from the  
16 membership of the Board every two (2) years. The Board is  
17 authorized to appoint a State Director of Tests for Alcohol and Drug  
18 Influence and other employees, including, but not limited to,  
19 persons to conduct training and provide administrative assistance as  
20 necessary for the performance of its functions, subject to available  
21 funding and authorized full-time equivalent employee limitations.  
22 The Board may expend appropriated funds for purposes consistent with  
23 Sections 751 through 761 of this title and Sections 301 through 308  
24 of Title 3 of the Oklahoma Statutes. The Legislature shall

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

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

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

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

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

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

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

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

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

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES  
20 April 12, 2023 - DO PASS

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