

**Council on Law Enforcement Education & Training
2011 Legislative Update**



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Legal update 2010. Please keep in mind that this document is, by necessity, a summary. If we were to copy all the new laws, this document would run to several thousand pages. Even a detailed summary of every provision would be hundreds of pages long, and that is simply not feasible. You are encouraged to read the complete laws, available at www.oscn.net. Click on 'legal research' and then click on 'Oklahoma Statutes Citationized'. You can get a complete history of each bill at the Oklahoma Legislature's website: <http://webserver1.lsb.state.ok.us/WebBillStatus/main.html>.

TITLE 21

CRIMES AND PUNISHMENTS

HB 1439 (effective November 1, 2011) amends 21 O.S. § 1289.25 to extend the presumption of fear of use of deadly force to businesses and the 'owner, manager or employee' of such business.

SB 856 (effective November 1, 2011) enacts a new law to be codified at 21 O.S. § 1289.2. This section makes it a crime to provide 'materially false information' to a firearms or ammunition dealer or seller 'about the legality of a transfer' of a firearm or ammunition. Punishment is a fine of up to \$5,000 and/or imprisonment of up to five years. 'Material false information' is defined as 'information that portrays an illegal transaction as legal or a legal transaction as illegal'.

HB 1322 (effective November 1, 2011) amends 21 O.S. § 1451 to provide that any executor, trustee, or beneficiary who violates this section (embezzlement) may not 'receive any portion, share, gift, or otherwise benefit from the estate'.

SB 923 (effective November 1, 2011) amends 21 O.S. § 856 and enacts new laws to be codified at 21 O.S. § 856.3 and 70 O.S. § 5-146.1.

21 O.S. § 856 is amended to increase the penalty for every person who does 'cause, aid, abet, encourage, solicit, or recruit' a minor to join a 'criminal street gang' to up to five years and/or a fine of \$5,000 (increased from one year and \$3,000). A second or subsequent violation is punishable by imprisonment of up to 10 years.

21 O.S. § 856.3 makes the commission (or attempt) of a gang-related offense as 'a condition of membership' in the gang a felony, punishable by imprisonment of up to 5 years.

70 O.S. § 5-146.1 requires a 'school employee' who has 'reason to believe that a child under the age of eighteen (18) years is involved in gang activity' shall notify the person designated by the school district. That person may report to

the nearest local law enforcement agency. A person who makes a report 'in good faith and exercising due care' has immunity from criminal or civil liability.

HB 1652 (effective November 1, 2011) amends 21 O.S. § 1277 to move 'technology center school property' from the list of places where concealed carry is unlawful, to subsection D, which concerns colleges. Also, the amendment clarifies that firearms may be stored in areas used for 'parking' vehicles.

HB 1604 (effective November 1, 2011) amends 21 O.S. § 1738 to make several changes:

- Removes the requirement that the vehicle be 'owned' by the defendant, but still allows the 'innocent owner' defense.

- Prohibits forfeiture of vehicles used by a 'common carrier' unless the owner consented to the unlawful use.

- If a forfeiture action is not filed within 90 days of the date of seizure, the property is to be returned to the owner.

- Any balance remaining after sale of the property may be used to 'defray any lawful expenses of the district attorney'

SB 285 (effective November 1, 2011) amends 21 O.S. § 1835 to provide that the Governor's mansion is not required to post 'no trespassing' signs. A trespass at the Governor's mansion is punishable by a fine of up to \$500 and/or imprisonment of up to six months.

This bill also enacts a new law to be codified at 21 O.S. § 282 which prohibits entry onto, or remaining in, any area which is 'posted, cordoned off, or otherwise restricted' for the use of any 'state official being provided protection by the Department of Public Safety'.

SB 406 (effective November 1, 2011) amends 21 O.S. § 1380 to expand protection under the 'Oklahoma Funeral Picketing Act'. Any 'protest activities' must be at least 1,000 from the property line of the place where the service is held, and is not allowed 'during the period from two (2) hours before the scheduled commencement of funeral services until two (2) hours after the actual completion of the funeral services'. A violation is punishable by a fine of up to \$500 and/or imprisonment of up to 30 days.

HB 1355 (effective November 1, 2011) amends 21 O.S. § 1168 to provide priorities as to who has the right to 'control the disposition of the remains of a deceased person'. The person must be at least 18 years old, and cannot be a person charged with first or second degree murder in the death of the decedent. In order:

- a. The decedent, if written directions are made in compliance with State law.
- b. A representative appointed by the deceased in compliance with State law.
- c. The surviving spouse
- d. A sole surviving child, or a majority of the surviving adult children
- e. A surviving parent or parents
- f. A surviving sibling, or a majority of the surviving adult siblings
- g. A duly appointed Guardian
- h. Persons in degree of kinship as set out under the laws of descent and distribution
- i. A public officer, if the decedent was an indigent person
- j. Any other person willing to assume the responsibility in writing

HB 1549 (effective November 1, 2011) enacts a new law to be codified at 21 O.S. § 1040.56 which allows a person who was a victim of child pornography, to bring a civil action against the perpetrator 'regardless of whether the victim is now an adult'. Any suit must be brought within three years after the person reaches age 18; after the notification to the victim of the child pornography; or the conclusion of any related criminal case.

SB 494 (see, also, in Title 76) (effective November 1, 2011) enacts several new laws to be codified at 21 O.S. § 1835.3 *et seq.* This is a comprehensive act concerning trespass and is known as the 'Oklahoma Private Lands and Public Recreation Act'. Here are the highlights:

- a. 'Land' is defined as private land that is 'primarily devoted to farming, ranching, or forestry purposes'. 'Recreational use' means any activity undertaken for 'exercise, education, relaxation, or pleasure on land owned by another'. 'Recreational trespass' means 'remaining on land for a recreational use after being asked to leave by the owner' or 'entry on land for a recreational use without the express or implied consent of the owner'.
- b. Presence on the land of another is *prima facie* evidence of 'recreational use'. Implied consent is an affirmative defense, and the absence of posting is not sufficient to imply consent.

- c. Other prohibited acts include:
 - a. 'mud bogging'
 - b. Destruction or removal of property.
 - c. Littering
 - d. Failure to leave 'gates, doors, fences, road blocks, obstacles, or signs' in the condition in which they were found.
- d. Any 'local, county, or state law enforcement officer' may issue a citation for a violation. Punishment is a fine of up to \$250 and/or imprisonment of up to 10 days. A second conviction may be punished by a fine of up to \$500 and/or imprisonment for up to 20 days. A third conviction may be punished by a fine of up to \$2,500 and/or imprisonment of up to 6 months.
- e. An 'aggravated violation' is one in which a vehicle is driven in such a way as to 'endanger others or to cause damage to the land'. Such a violation is punishable by a fine of up to \$500 and/or imprisonment for up to 10 days.
- f. The hunting or fishing license of a violator may be revoked for up to one year.

HB 1255 (effective November 1, 2011) enacts a new law to be codified at 21 O.S. § 1289.28 which allows a United States Attorney or Assistant United States Attorney to carry a firearm if properly trained.

SB 446 (effective November 1, 2011) amends 21 O.S. § 1021 to provide that a person who has committed the crime of 'public urination' is not subject to registration as a sex offender unless the act was 'accompanied with another act' that would violate the prohibition against lewd exposure.

SB 952 (effective November 1, 2011) amends several sections

-21 O.S. § 13.1 to add 'aggravated assault and battery upon any person defending another person from assault and battery' to the list of 85% crimes.

-21 O.S. § 644 to provide a new penalty for domestic A&B with any dangerous weapon. It is punishable by up to 10 years in DOC or up to one year in county jail. A domestic battery which is done with a firearm is punishable by up to life in prison.

-21 O.S. § 650 to include federal peace officers, and to increase the maximum

punishment to life in prison and/or a fine of up to \$1,000. This also adds a new crime of committing aggravated assault and battery on a Peace Officer which results in maiming. Punishment is 5 years to life and/or a fine of up to \$5,000.

-21 O.S. § 759 to increase the penalty for maiming to up to life imprisonment and/or a fine of up to \$1,000.

-21 O.S. § 1105 to include 'domestic assault and battery or domestic assault and battery with a deadly weapon' to the list of crimes for which a Peace Officer may not release a person before the arrestee appears before a judge.

TITLE 22

CRIMINAL PROCEDURE

HB 1672 (effective November 1, 2011) amends 22 O.S. § 471.6 to provide that, when the judge of a drug court enters a stay against a DPS suspension or revocation of the drivers license of a drug court participant, the time period set in the DPS order continues to run during the stay.

HB 1358 (effective November 1, 2011) amends 22 O.S. § 60.4 to make Victims Protective Orders issued against a person who is incarcerated 'remain in full force and effect during the period of incarceration'. The term of incarceration is not included in the calculation of the three-year time limitation.

TITLE 47

MOTOR VEHICLES

HB 1061 (effective November 1, 2011) amends 47 O.S. § 12-229 to provide that rear facing flashing red and blue lights may be used on vehicles used by 'Oklahoma Department of Transportation, the Oklahoma Turnpike Authority, or by any county when engaged in the performance of emergency work or on the construction or maintenance of highways'.

HB 1507 (effective November 1, 2011) amends 47 O.S. § 6-205 to add the following grounds for revocation of a driver's license:

-Operating a hired bus or limousine while transporting persons under 21 who are in possession of alcohol or low-point beer

-Reckless driving 'without regard for the safety of others'

-Failure to obey a traffic control device when such failure results in great bodily injury to any other person

-Failure to stop or remain stopped for a school bus loading or unloading children

This bill also amends 47 O.S. § 11-903 to provide that negligent homicide as result of motor vehicle use is a misdemeanor, and that the court is to order the driver to attend a 'driver improvement or defensive driving course'.

SB 126 (effective November 1, 2011) amends 47 O.S. § 11-702 to clarify that any bus, 'whether occupied or unoccupied by passengers' must stop within 50 feet (but not closer than 15 feet) of a railroad crossing, and the driver must 'listen and look in each direction along the tracks for an approaching train, and ascertain that no train is approaching'. The driver is not allowed to change gears while crossing the tracks.

SB 95 (effective November 1, 2011) amends 47 O.S. § 14-111, which exempts a person hauling livestock, (not for commercial purposes) from the weight limit provisions. This amendment removes the requirement that the person have the words 'not for hire' on the vehicle.

SB 200 (effective November 1, 2011) amends 47 O.S. § 1135.3 to provide for some new special license plates (!). The new ones include:

- Ovarian cancer awareness
- BMW Car Club of America
- Deer Creek School District
- Don't Tread on Me

SB 325 (effective November 1, 2011) amends 47 O.S. § 1102 and § 11-1117 to clarify some motor vehicle definitions:

- a. A 'Recreational off-highway vehicle' is manufactured and used exclusively for off-highway use, traveling on four or more non-highway tires, having non-straddle seating and steered by a steering wheel.
- b. An 'All-terrain vehicle' is manufactured and used exclusively for off-highway use, traveling on four or more 'non-highway' tires, and having a seat designed to be straddled, and handlebars for steering.

SB 443 (effective November 1, 2011) amends 47 O.S. § 6-110 to require that the drivers license examination include testing of the applicant's knowledge of bicycle and motorcycle safety.

SB 499 (effective November 1, 2011) amends 47 O.S. § 14-118 to increase the maximum speed limit for 'special mobilized machinery' from 50 mph to 60 mph.

HB 1676 (effective November 1, 2011) makes several changes related to the Department of Public Safety. These include:

- a. **Amends 27A O.S. § 2-9-104** to provide that the use of radiation sources by 'public safety bomb squads' is not covered by the rules that apply to other radiation sources.
- b. **Amends 47 O.S. § 2-122** to allow DPS to receive funds from state agencies, state and local agency employees, and from rental for use of 'other training facilities' of DPS.
- c. **Amends 47 O.S. § 2-143** to permit DPS to purchase, equip, and maintain vehicles for 'any other purpose related to the duties' of DPS.
- d. **Amends 47 O.S. § 10-113** to require DPS to 'make available' forms for accident reports to the appropriate agencies.
- e. **Amends 47 O.S. § 11-1112** to provide an exception to the requirement that a child use a seat belt or other restraint. A child with a medical condition does not have to use restraints if there is 'written documentation from a physician'. **Also**, the portion of the statute that allows an Officer to stop a vehicle for a violation to give a warning is repealed.
- f. **Amends 47 O.S. § 752** to make the costs of collection of 'blood, saliva, or urine specimens', as a result a DUI or similar charge, a court cost upon conviction.

SB 38 (effective November 1, 2011) amends 47 O.S. § 1102 and § 1105 to define a new classification of motor vehicles. A 'rebodied vehicle' is one which has been assembled using a 'new body or new major component which is of the identical type as the original vehicle and is licensed by the manufacturer'. A 'new body or new major component' includes a new body, cab, frame, frond end clip, or rear end clip.

HB 1520 (effective November 1, 2011) amends 47 O.S. § 7-606 (proof of insurance). This amendment allows a person to present proof of liability coverage and have the case dismissed without costs if the coverage was in 'force at the time of the alleged offense'. Proof must be presented no later than the business day preceding the first scheduled court appearance date.

HB 1743 (effective November 1, 2011) enacts a new law to be codified at 47 O.S. § 966, to be known as the 'Nonconsensual Towing Act of 2011'. This law establishes a comprehensive scheme to govern the transportation of a vehicle without the consent of knowledge of the vehicles' owner 'or any other person in possession of or in charge of' the vehicle. This includes the towing of the vehicle for the public interest including 'by any law enforcement officer' as a result of abandonment or unauthorized parking. The Corporation Commission is given the power to establish rates and adjudicate disputes and discipline tow companies who violate the act. Several sections in Title 47 are amended to effect these changes.

SB 529 (effective November 1, 2011) amends some sections related to DUI offenses:

-**47 O.S. § 6-111** to require the words 'Interlock required' on the driver's license of a person subject to an ordered interlock device.

-**47 O.S. § 6-205.1** to require an interlock device even if a modification of revocation is made.

HB 1319 (effective November 1, 2011) amends 47 O.S. § 11-902 to provide than a witness who is 'qualified by knowledge, skill, experience, training, or education' may testify in the form of an opinion 'solely on the issue of impairment, but not on the issue of specific alcohol concentration level' based on SFST's. A DRE may testify to impairment and to the 'category' of the impairing substance if relevant. This bill also increases punishment for subsequent DUI offenses.

TITLE 76

TORTS

SB 494 (see also, in Title 21) (effective November 1, 2011) enacts a new law to be codified at 76 O.S. § 80 which affects tort liability of a land owner. This law repeats the common-law rule that a land owner owes no legal 'duty' to a trespasser, but also codifies several exceptions:

- a. A land owner who knows or reasonably should know of a trespasser's presence has a duty not to injure that trespasser by a 'wanton or intentional act'
- b. A land owner may be liable for injury to a 'child trespasser' from a 'highly dangerous artificial condition on the land' if:
 - The land owner knew or had reason to know that children were likely to trespass at the location
 - The condition is one 'unusually attractive to children' and posed an 'unreasonable risk of death or serious bodily harm'
 - The injured child was 'attracted' by the condition
 - The child lacked the ability to appreciate the risk
 - The 'utility to the possessor of maintain the condition and the burden of eliminating the danger were slight' compared to the risk
 - A child under age 7 has no ability to appreciate the risk. A child between 7 and 14 is 'presumed to lack the ability to appreciate the risk', but this presumption may be overcome by evidence.

TITLE 43A

MENTAL HEALTH

HB 1271 (effective November 1, 2011) amends 43A O.S. § 1-103 in several ways:

- a. Expands the definition of 'person requiring treatment' to include those who:
 - a. Pose a substantial risk of immediate physical harm to self or others 'as manifested by evidence'
 - b. Have placed another person in fear of violent behavior or serious physical harm.
 - c. Are in a condition of 'severe deterioration' with a substantial risk of severe impairment or injury
 - d. Are unable to provide for their own basic physical needs

- b. Allows the use of the 'mental health or substance abuse history' of the person in making the evaluation. This cannot be the 'sole basis' for the determination.
- c. **Amends 43A O.S. § 5-410** to allow a petition for a court action to be filed by a 'treatment advocate'.

TITLE 70

SCHOOLS

SB 131 (effective November 1, 2011) amends 70 O.S. § 3311 to allow CLEET to investigate, in certain cases, Peace Officers who resign while under investigation by their department, pursuant to the Administrative Procedures Act.

SB 157 (effective November 1, 2011) amends 70 O.S. § 3311 to allow CLEET to require an MMPI (or equivalent) for any Peace Officer who has a break in service exceeding five years or if the Council determines that the Peace Officer presents 'a danger to himself or herself, the public, or a family or household member'.

SB 408 (effective November 1, 2011) amends 70 O.S. § 3311 to allow CLEET to charge a reinstatement fee of \$150.00 to persons whose 'certification has been revoked, suspended, or voluntarily surrendered', including 'failure to comply with mandatory and training requirements'.

SB 416 (effective November 1, 2011) amends 70 O.S. § 3311 to allow CLEET to approve any 'law enforcement agency or police department' which 'first creates or reactivates an inactive law enforcement agency or police department' on after November 1, 2011. The law enforcement agency must submit, at least 60 days prior to creation of the agency, information including:

- The need for the agency

- The funding sources (income from tickets or fines may not exceed 50% of the total)

- Physical resources available to officers'

- Physical facilities including evidence room, dispatch, restrooms, and public areas

- Published policies including

- a. Use of force

- b. Vehicle pursuit
- c. Mental health
- d. Professional conduct of officers
- e. Domestic abuse
- f. Response to missing persons
- g. Supervision of part-time officers
- h. Impartial policing

-Administrative structure of the agency

-Liability insurance

-Other information required by CLEET Rules.

CLEET is to respond within 60 days of receipt of the completed application. If denied, appeal may be made to the full Council, which may authorize the agency, confirm the Director's denial of the agency, or request additional information.

SB 567 (effective January 1, 2012) amends 70 O.S. § 3311.5 to require CLEET to include in the required course of study a minimum of 8 hours of 'evidence-based domestic violence and stalking investigation training'. A portion of the training is to include instruction presented by 'an expert victim advocate' selected from recommendations provided by the A.G. or the Oklahoma Domestic Violence Fatality Review Board. This training is also to be made part of the continuing education program for Officers that have already completed basic training.

HB 1586 (effective November 1, 2011) amends 70 O.S. § 821.82 to broaden the definition of 'Athletic Agent' and to increase the penalties for a violation.

SB 59 (effective July 1, 2011) amends 70 O.S. § 5-142 to provide that 'any person employed as a full-time teacher by a school district in this state' in the five years preceding the application for 'employment as a substitute teacher' is not required to have a background check, if the teacher produces (1) a criminal history record check completed within the preceding five years and (2) a letter from the school district in which the teacher was last employed stating that the teacher 'left in good standing'.

SB 252 (effective July 1, 2011) amends 70 O.S. § 5-142 to allow a board of education to 'choose not to require a record check' if the person was employed by the school district during the previous school year.

HB 1418 (effective July 1, 2011) amends 70 O.S. § 5-142 to clarify the definition of 'prospective employee' and allows the employment of a prospective employee for up to 60 days pending receipt of the criminal history record check.

SB 12 (effective November 1, 2011) amends 70 O.S. § 5-142 to clarify that required background checks do not apply to 'technology center employees hired on a part-time or temporary basis for the instruction of adult students only'.

TITLE 59

PROFESSIONS AND OCCUPATIONS

SB 263 (effective November 1, 2011) amends 59 O.S. § 1750.3 to allow CLEET to require up to 24 hours of continuing education for security guards and private investigators during the 'licensing period'. This still averages 8 hours per year.

SB 299 (effective November 1, 2011) amends 59 O.S. 161.6 concerning investigations of licensed chiropractors. An investigator hired by the Board of Chiropractic Examiners must be certified as a Peace Officer by CLEET and will have statewide jurisdiction for purposes of these investigations.

TITLE 4

ANIMALS

HB 1249 (effective November 1, 2011) amends 4 O.S. § 268 to remove 'persons in the sole process of retrieving their domestic livestock or other animals' from the exceptions to the Trespass statute.

TITLE 29

GAME AND FISH

HB 1474 (effective November 1, 2011) amends 29 O.S. § 7-209 to increase the penalty for trespass on a deer farm or a licensed 'commercial hunting area' from \$250 to \$1,500.

HB 1347 (effective November 1, 2011) enacts a new law to be codified at 29 O.S. § 9-111 *et seq.* Known as the 'Wildlife Bail Procedure Act', it makes several changes in handling of violations of the Oklahoma Wildlife Conservation Code:

29 O.S. § 9-112 - 'any person arrested for a violation of any section' of the Code:

-for a misdemeanor and the person is not taken into custody, written citation with notice to appear; name and address of the violator; the offense charged; time and place to appear in court; and 'any other pertinent information'

-if properly completed and signed and filed, the citation is considered a 'lawful complaint for the purpose of prosecution'

-the violator must appear in person, or by counsel, for arraignment at the date and time specified

-arraignment is before a judge in the district court in the county which has jurisdiction

-violator must sign 'at least one copy' of the citation, and be given a copy

-violator *is not* to be taken into custody if:

-is a resident OR

-a nonresident, but from a state within the Interstate Compact

-the Officer is satisfied as to the identity and certifies the date, time, and location of the violation

-violator acknowledges the written promise to appear

-the violation is not for hunting or fishing while a license is under suspension, revocation, denial, or cancellation, and the violator is not the subject of an arrest warrant

-violator may post bond in the 'amount of the minimum bond' if the violation carries a 'minimum fine of \$50 or less' and violator signs a plea on the back of the citation. If this is done the violator is not required to appear for arraignment

-if restitution is required the violator is required to appear before the court.

-failure to appear or otherwise comply is punishable by a fine of \$25 to \$100, in addition to the original charge. The court may issue a bench warrant on application by the District Attorney. In addition, the Department may begin procedures to forfeit or suspend 'any license, permit, stamp, or other issue of the Department held by the person'

Repeals 29 O.S. § 9-101 (posting of cash bail for violations of the Code)

Repeals 29 O.S. § 9-102 (application for duplicate license while the original license is posted in lieu of cash bond)

Repeals 29 O.S. § 9-103 (return of drivers license deposited in lieu of cash bail)

Repeals 29 O.S. § 9-104 (details of procedure on failure to appear)

Repeals 29 O.S. § 9-105 (forfeiture of bond on plea of guilty)

HB 1338 (effective November 1, 2011) amends 29 O.S. § 4-112A to require that persons under 10 years old, 'when hunting big game' and 'regardless of hunter safety certification' must be accompanied by a person 18 years or older who 'possesses a certificate of hunter safety or is exempt from the hunter safety certification requirements'. This person must be within arm's length or close enough to 'immediately take control of the firearm or archery equipment' of the apprentice hunter. This amendment also lowers the upper age for required safety classes from 35 to 30 years old.

SB 828 (effective November 1, 2011) amends a couple of statutes:

-Amends 29 O.S. § 7-209 to include shooting from or across a public road, highway, or railroad right-of-way onto a commercial hunting area as a prohibited act.

-Amends 29 O.S. § 5-204 to increase the punishment for shooting from a road to a fine of up to \$1,500 and/or imprisonment of up to 30 days. A second or subsequent offense is punishable by a fine of up to \$2,500 and/or imprisonment for up to 30 days.

HB 1339 (effective January 1, 2013) enacts a new law to be codified at 29 O.S. § 4-203 which requires dealers who issue hunting or fishing licenses to do so by means of 'an electronic point of sale system'.

TITLE 63

PUBLIC HEALTH AND SAFETY

HB 1798 (effective November 1, 2011) amends 63 O.S. § 2-509 to provide that it is unlawful to manufacture or attempt to manufacture any CDS by 'cooking, burning,

or extracting and converting' marihuana into hashish.

SB 179 (effective November 1, 2011) amends 63 O.S. § 2-101.2 to modify the prohibition on selling glass tubes (passed in 2010). This amendment provides an exception that makes it lawful to sell 'cigars packaged by the manufacturer in containers or tubes made of glass' so long as the purpose is to 'facilitate the sale' of the cigar and not 'for another purpose'.

SB 324 (effective July 1, 2011) makes a few changes related to boats:

- a. **amends 63 O.S. § 4210** to remove the prohibition against allowing a child under 12 years old to operate certain boats.
- b. **enacts a new law to be codified at 63 O.S. 4210.9** which is essentially an 'implied consent' law for boats.
- c. **Amends 63 O.S. § 4210.8** to lower the blood or breath alcohol concentration to 0.08.

SB 679 (effective November 1, 2011) amends 63 O.S. § 1-1950.3 to allow a 'certified medication aide' to distribute medications in a county or municipal jail.

TITLE 37 ***INTOXICATING LIQUORS***

HB 1211 (effective November 1, 2011) amends 37 O.S. 8.2 to include 'low-point beer' in the statute prohibiting a person from permitting a person under 21 to consume alcoholic beverages. Punishment for a violation is set at a fine of up to \$500. A second violation within 10 years is punishable by a fine of up to \$1,000. A third violation within 10 years is punishable by a fine of up to \$2,500 and/or imprisonment of up to 5 years. In addition, **37 O.S. § 241 and § 246 are amended** to allow a city or town to enact ordinances for this violation, so long as the ordinance is consistent with State law.

TITLE 10 ***CHILDREN***

HB 1606 (effective November 1, 2011) amends 10 O.S. § 7800 to provide that a child born out of wedlock is presumed to be in the custody of the mother until 'determined otherwise by a court of competent jurisdiction'.

SB 674 (effective November 1, 2011) amends 10 O.S. § 404.1 to address background checks on any person 'making application to establish or operate a child care facility'. After November 1, 2013, persons making application for a child facility, and employees, must have an OSCN search, a child care registry search, and a national history records search. The background check is not required for 'parent volunteers who transport children on an irregular basis'.

TITLE 19

COUNTIES AND COUNTY OFFICERS

SB 54 (effective November 1, 2011) amends 19 O.S. § 215.2 to require that an elected District Attorney must have been a registered voter in the district and residing in the district for at least 6 months immediately preceding the filing date.

SB 162 (effective November 1, 2011) amends 19 O.S. § 215.29 and § 215.35A to allow a retired District Attorney to carry a firearm, and to allow a retired District Attorney Investigator to retain his or her badge and firearm.

TITLE 74

STATE GOVERNMENT

SB 666 (effective November 1, 2011) amends 74 O.S. § 840-2.20 to provide that State employees who are Municipal Reserve Officers or Reserve Deputies and 'miss work in performing their duties in cases of emergency' do not have to use 'any accrued leave or need to make up any time' due to the performance of those duties.

SB 363 (effective November 1, 2011) amends 74 O.S. § 320 to prohibit the State Fire Marshal from engaging in any other business 'that may be a conflict of interest with the duties of the State Fire Marshal'.

SB 895 (effective November 1, 2011) enacts a new law to be codified at 74 O.S. § 150.13A which allows OSBI to appoint special officers (no more than 20) to have 'enforcement authority related to the larceny of oil field equipment'. These 'Special Investigators' are not compensated, and must enter into a bond for \$500,000.

TITLE 57

PRISONS AND REFORMATORIES

SB 180 (effective November 1, 2011) amends 57 O.S. § 627 to permit DOC to

contract with health care providers for health care for inmates ‘which is beyond the professional capabilities’ of DOC.

SB 282 (effective November 1, 2011) amends 57 O.S. § 584 to cover persons who have ‘an out-of-state conviction that requires registration’. These persons must supply a certified copy of the Judgment and Sentence from the other State, and must keep officials notified of their residence.

SB 582 (effective July 1, 2012) amends 57 O.S. § 590.1 to define housing units for registered sex offenders. A ‘multi-unit structure’ as one with multiple residential units that provide independent living facilities for ‘living, sleeping, cooking, eating, and sanitation within each individual unit’. Manufactured homes, mobile homes, trailers, and R.V.’s that do not meet the descriptions of this paragraph are not considered ‘multi unit’ structures.

TITLE 11

CITIES AND TOWNS

SB 160 (effective November 1, 2011) enacts a new law to be codified at 11 O.S. § 22-161, known as the ‘Municipal Motor Vehicle Racing Act’. This allows a municipality of public trust to conduct a racing event within the limits of the municipality. A permit from the municipality is required. The applicant must satisfy the municipality of:

- a. Adequate insurance
- b. Demonstrated experience in conducting such an event
- c. Adequate security and necessary facilities
- d. Adequate safety measures.
- e. The ability to restore the racing event area to its original condition.

SB 347 (effective November 1, 2011) enacts a new law to be codified at 11 O.S. § 1-110. This law affects, among others, any municipal employee who is a member of ‘the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Public Employees Retirement System. Any such person who is convicted of (or enters a plea of guilty or no contest to) a felony for ‘bribery, corruption, forgery, or perjury, or any other crime related to the duties of his or her office or employment’ will forfeit any retirement

benefits. The forfeiture does not apply to a deferred sentence, but benefits cannot commence prior to completion of the deferred sentence.

TITLE 69 ROADS, BRIDGES, AND FERRIES

SB 304 (effective November 1, 2011) enacts a new law to be codified at 69 O.S. § 1698.93 which designates the southbound bridge on US 277 / US 281 as the 'President George W. Bush Bridge'.

TITLE 3A AMUSEMENTS AND SPORTS

HB 1321 (effective November 1, 2011) amends 3A O.S. § 709 to prohibit the use of children under the age of 18 in any 'advertisement or promotion' of the State Lottery.

TITLE 68 REVENUE AND TAXATION

HB 1634 (effective July 1, 2011) amends 68 O.S. § 1503 to reduce the annual fee for a coin-operated 'music device or coin-operated amusement device' or for a 'coin-operated vending device' from \$150 to \$75.

TITLE 25 DEFINITIONS AND GENERAL PROVISIONS

SB 73 (effective November 1, 2011) enacts a new law to be codified at 25 O.S. § 94.11. This law makes the song 'Swing Low, Sweet Chariot' the official state gospel song. The bill notes that the song was composed by "Wallis Willis, a Choctaw freedman living in Indian Territory before 1862'. The official lyrics are set out in the statute and on the last page of this update.

HB 1511 (effective November 1, 2011) enacts a new law to be codified at 25 O.S. § 90.20 naming the twenty-eighth day of June of each year 'Second Amendment Day'. This date was chosen to commemorate the date that the U.S. Supreme Court declared that the provisions set out in the Second Amendment are fully applicable to the States.

Swing low, sweet chariot,
Coming for to carry me home,
Swing low, sweet chariot;
Comin' for to carry me home.

I looked over Jordan, and what did I see,
Comin' for to carry me home,
A band of angels comin' after me,
Comin' for to carry me home.

Swing low, sweet chariot,
Comin' for to carry me home,
Swing low, sweet chariot,
Comin' for to carry me home.

If you get there before I do,
Comin' for to carry me home,
Tell all my friends I'm comin' too,
Comin' for to carry me home.

Swing low, sweet chariot,
Comin' for to carry me home,
Swing low, sweet chariot,
Comin' for to carry me home.

I'm sometimes up and sometimes down,
Comin' for to carry me home,
But still my soul feels heavenly bound,
Comin' for to carry me home.

Swing low, sweet chariot,
Comin' for to carry me home,
Swing low, sweet chariot,
Comin' for to carry me home.

The brightest day that I can say,
Comin' for to carry me home,
When Jesus washed my sins away,
Comin' for to carry me home.

Swing low, sweet chariot,
Comin' for to carry me home,
Swing low, sweet chariot,
Comin' for to carry me home.