

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2072

BY: ISTOOK

AS INTRODUCED

AN ACT RELATING TO MOTOR VEHICLES; AMENDING 47 O.S. 1991, SECTIONS 6-205, 6-205.1, 6-205.2 AND 6-206, WHICH RELATE TO DRIVER'S LICENSES; CLARIFYING MANDATORY REVOCATION REQUIREMENTS; PROVIDING FOR REVOCATION FOR OPERATING A MOTOR VEHICLE WHILE IMPAIRED BY ALCOHOL; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 6-205, is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall forthwith revoke the driver's license or driving privilege of any person upon receiving a record of conviction in any district or municipal court of any of the following offenses, when such conviction has become final:

1. Manslaughter or negligent homicide resulting from the operation of a motor vehicle;
2. Driving or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance or operating a motor vehicle while

impaired by the consumption of alcohol, provided however, the Department shall not additionally revoke such license pursuant to this subsection if the person's driving privilege has been revoked because of a test result or test refusal pursuant to Sections 753 or 754 of this title arising from the same circumstances which resulted in the conviction;

3. Any felony during the commission of which a motor vehicle is used;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

5. Perjury or the making of a false affidavit or statement under oath to the Department under the Uniform Vehicle Code, Section 1-101 et seq. of this title, or under any other law relating to the ownership or operation of motor vehicles;

6. A felony conviction for unlawfully possessing, distributing, dispensing, manufacturing or trafficking in a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act; or

7. A misdemeanor conviction for unlawfully possessing a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act while in actual physical control of a motor vehicle.

B. The first license revocation under any provision of this section except for paragraphs 2 and 7 of subsection A of this section shall be for a period of one (1) year. Such period shall not be modified.

C. A license revocation under any provision of this section except for paragraph 2 of subsection A of this section shall be for a period of three (3) years if a prior revocation under this section, except under paragraph 2 of subsection A of this section

commenced within the preceding five-year period as shown by the Department's record. Such period shall not be modified.

D. The period of license revocation under paragraph 2 of subsection A of this section shall be governed by the provisions of Section 6-205.1 of this title.

E. The license revocation under paragraph 7 of subsection A of this section shall be for a period of thirty (30) days. Such period shall not be modified.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-205.1, is amended to read as follows:

Section 6-205.1 (a) The driver's license or driving privilege of a person who is convicted of or receiving a deferred judgement for any offense as provided in paragraph 2 of subsection (a) of Section 6-205 of Title 47 of the Oklahoma Statutes, or a person who has refused to submit to a test or tests as provided in Section 753 of Title 47 of the Oklahoma Statutes, or a person whose alcohol concentration is ten-hundredths (0.10) or more as provided in Section 754 of Title 47 of the Oklahoma Statutes, shall be revoked or denied by the Department of Public Safety for the following period, as applicable:

1. The first license revocation under Section 753 of Title 47 of the Oklahoma Statutes shall be for one hundred eighty (180) days, of which the first ninety (90) days shall not be modified;

2. The first license revocation under paragraph 2 of subsection (a) of Section 6-205 of Title 47 of the Oklahoma Statutes or under Section 754 of Title 47 of the Oklahoma Statutes shall be for ninety (90) days, of which the first thirty (30) days shall not be modified;

3. A revocation pursuant to paragraph 2 of subsection (a) of Section 6-205, 753 or 754 of Title 47 of the Oklahoma Statutes shall be for a period of one (1) year if within five (5) years preceding the date of arrest relating thereto, a prior revocation commenced

under paragraph 2 of subsection (a) of Section 6-205, 753 or 754 of Title 47 of the Oklahoma Statutes as shown by the Department's records. Such period shall not be modified; or

4. A revocation pursuant to paragraph 2 of subsection (a) of Section 6-205, 753 or 754 of Title 47 of the Oklahoma Statutes shall be for a period of three (3) years if within five(5) years preceding the date of arrest relating thereto, two or more prior revocations commenced under paragraph 2 of subsection (a) of Section 6-205, 753 or 754 of Title 47 of the Oklahoma Statutes as shown by the Department's records. Such period shall not be modified.

(b) The term "revocation" as used in this section includes a denial by the Department to issue a driver's license.

(c) Each period of license revocation not subject to modification shall be mandatory and neither the Department nor any court shall grant a license or permit to drive a motor vehicle based upon hardship or otherwise for the duration of such period. The balance of the revocation period, if any, may be modified as provided for in Section 754.1 or 755 of Title 47 of the Oklahoma Statutes.

(d) Any appeal shall be governed by Section 6-211 of Title 47 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 6-205.2, is amended to read as follows:

Section 6-205.2 A. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for a period of not less than one (1) year upon receiving a record of such person's conviction in any court of any of the following offenses, when such conviction has become final:

1. Driving, operating or being in actual physical control of a Class A, B or C commercial motor vehicle while having a blood or breath alcohol concentration, as defined in Section 756 of Title 47 of the Oklahoma Statutes, of four-hundredths (0.04) or more;

2. Refusing to submit to a test for determination of alcohol concentration, as required by Section 751 of Title 47 of the Oklahoma Statutes, while operating a Class A, B or C commercial motor vehicle;

3. Driving or being in actual physical control of a Class A, B or C commercial motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle accident which occurs while operating a Class A, B or C commercial motor vehicle; or

5. Any felony during the commission of which a Class A, B or C commercial motor vehicle is used, except a felony involving the manufacture, distribution or dispensation of a controlled dangerous substance.

B. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for a period of not less than three (3) years upon receiving a record of such person's conviction in any court of any of the following offenses, committed in connection with the operation of a motor vehicle which is required to be placarded for hazardous materials under 49 C.F.R. Part 172, subpart F, when such conviction has become final:

1. Driving, operating or being in actual physical control of a Class A, B or C commercial motor vehicle while having a blood or breath alcohol concentration, as defined in Section 756 of Title 47 of the Oklahoma Statutes, of four-hundredths (0.04) or more;

2. Refusing to submit to a test for determination of alcohol concentration, as required by Section 751 of Title 47 of the Oklahoma Statutes, while operating a Class A, B or C commercial motor vehicle;

3. Driving or being in actual physical control of a Class A, B or C commercial motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle accident which occurs while operating a Class A, B or C commercial motor vehicle; or

5. Any felony during the commission of which a Class A, B or C commercial motor vehicle is used, except a felony involving the manufacture, distribution or dispensation of a controlled dangerous substance.

C. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for life upon receiving a record of such person's conviction in any court of any of the following offenses after a former conviction of any of the following offenses, when such second conviction has become final:

1. Driving, operating or being in actual physical control of a Class A, B or C commercial motor vehicle while having a blood or breath alcohol concentration, as defined in Section 756 of Title 47 of the Oklahoma Statutes, of four-hundredths (0.04) or more;

2. Refusing to submit to a test for determination of alcohol concentration, as required by Section 751 of Title 47 of the Oklahoma Statutes, while operating a Class A, B or C commercial motor vehicle;

3. Driving or being in actual physical control of a Class A, B or C commercial motor vehicle while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle accident

which occurs while operating a Class A, B or C commercial motor vehicle; or

5. Any felony during the commission of which a Class A, B or C commercial motor vehicle is used, except a felony involving the manufacture, distribution or dispensation of a controlled dangerous substance.

The Department of Public Safety may promulgate rules and regulations establishing conditions under which a disqualification for life pursuant to the provisions of this paragraph may be reduced to a period of not less than ten (10) years.

D. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for life upon receiving a record of such person's conviction in any court for any felony related to the manufacture, distribution or dispensation of a controlled dangerous substance in the commission of which a Class A, B or C commercial motor vehicle is used, when such conviction has become final.

E. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for sixty (60) days upon receiving a record of such person's second conviction in any court for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when such convictions have become final. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for one hundred twenty (120) days upon receiving a record of such person's third conviction in any court for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when such convictions have become final. As used in this subsection, "serious traffic offense" shall mean any of the following offenses committed while operating a commercial motor vehicle:

1. Speeding in excess of fifteen (15) miles per hour over the limit;

2. Reckless driving as defined in Section 11-901 of Title 47 of the Oklahoma Statutes;

3. Any traffic offense committed that results in or in conjunction with a motor vehicle accident resulting in a fatality;

4. Erratic or unsafe lane change;

5. Following too close; or

6. Violating a lawful out-of-service order issued by the Department as authorized by the Commissioner of Public Safety.

F. Any person who drives a Class A, B or C commercial motor vehicle on any public roads, streets, highways, turnpikes or any other public place of this state at a time when he is disqualified or when his privilege to do so is canceled, denied, suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each act of driving as prohibited shall constitute a separate offense.

G. The periods of license suspension or revocation provided for in this section shall not be subject to modification pursuant to Section 754.1 or 755 of this title.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 6-206, is amended to read as follows:

Section 6-206. A. Whenever any person is convicted or pleads guilty in any court having jurisdiction over offenses committed under this act, Section 1-101 et seq. of this title, or any other act or municipal ordinance or act or ordinance of another state regulating the operation of motor vehicles on highways, such court shall make immediate report to the Department of Public Safety setting forth the name of the offender, the number of the driver's

license and the penalty imposed. Said report shall be submitted by the judge or the clerk of the court upon forms furnished or approved by the Department.

B. The Except as provided in subsection C or D of this section, the Department, upon receipt of said report or upon receipt of a report of a conviction in another state relating to the operation of a motor vehicle, may in its discretion suspend the driver's license of such person for such period of time as in its judgment is justified from the records of such conviction together with the records and reports on file in the Department, subject to the limitations provided in Section 6-208 of this title. Any action taken by the Department shall be in addition to the penalty imposed by the court.

C. The Department upon receipt of a report provided for in subsection A of this section for an offense involving operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance or any combination thereof or operating a motor vehicle while impaired by alcohol shall suspend the driver's license of the person for the period of time provided by law.

D. Following receipt of a notice of any nonpayment of fine and costs for a moving traffic violation with a recommendation of suspension of driving privileges of a defendant from any court within this state, as provided for in Section 983 of Title 22 of the Oklahoma Statutes, the Department shall suspend the driver's license or driving privilege of the named person after giving notice as provided in Section 2-116 of this title. Such suspension shall remain in effect until the Department receives proof of payment of the total amount of fine and costs or a release by the court and receives a reinstatement fee as provided for in Section 6-212 of this title. Upon reinstatement after suspension for nonpayment of fine and costs for a moving traffic violation the Department may

remove such record of suspension from the person's driving record and retain an internal record for audit purposes.

~~D.~~ E. Any person whose driver's license is so suspended under the provisions of this section shall have the right of appeal, as provided in Section 6-211 of this title.

SECTION 5. This act shall become effective September 1, 1992.

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