

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1717

By: Satterfield, Pope, Weese,
Webb and Phillips of the
House

and

Stipe and Helton of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 6-107.1, 6-205, as amended by Section 10, Chapter 217, O.S.L. 1992, 6-205.1 and 6-205.2, as amended by Sections 11 and 12, Chapter 217, O.S.L. 1992, and 6-209, as amended by Section 14, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1992, Sections 6-205, 6-205.1, 6-205.2 and 6-209), which relate to revocation, disqualification, suspension and cancellation of driver licenses; modifying certain revocation periods; modifying standards for disqualification; amending 47 O.S. 1991, Sections 753 and 754, which relate to testing for alcohol and other intoxicating substances; clarifying references; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 6-107.1,
is amended to read as follows:

Section 6-107.1 A. When any district court, municipal court of record or any municipal court in a city or town in which the judge is an attorney licensed to practice law in this state has determined that a person under the age of eighteen (18) years has committed any offense described in this section, the court shall notify the Department of Public Safety, on a Notification form prescribed by the Department as provided in Section 6-107.2 of this title.

B. The Notification shall include the name, date of birth, physical description and, if known, the ~~driver's~~ driver license

number of the person. The Notification shall contain a recommendation to the Department to cancel or deny driving privileges for a specified period of time, in the discretion of the court, as follows:

1. For a period of six (6) months;
2. For a period of one (1) year; or
3. For a period of six (6) months or until the person attains the age of eighteen (18) years, whichever period of time is longer.

The court shall send a copy of the Notification to the person first class, postage prepaid.

C. This section applies to any crime, violation, infraction, traffic offense or other offense involving or relating to the possession, use, sale, transportation, distribution, or abuse of beer, alcohol, or any beverage containing alcohol or any controlled dangerous substance pursuant to paragraph 8 of Section 2-101 of Title 63 of the Oklahoma Statutes or any substance which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-205, as amended by Section 10, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1992, Section 6-205), is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall forthwith revoke the ~~driver's~~ driver license or driving privilege of any person, whether adult or juvenile, upon receiving a record of conviction in any municipal, state or federal court within the United States 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; 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; or

6. A misdemeanor or felony conviction for unlawfully possessing, distributing, dispensing, manufacturing or trafficking in a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes.

B. The first license revocation under any provision of this section except for paragraph 2 or 6 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 or 6 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 or 6 of subsection A of this section shall be governed by the provisions of Section 6-205.1 of this title.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 6-205.1, as amended by Section 11, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1992, Section 6-205.1), is amended to read as follows:

Section 6-205.1 (a) The ~~driver's~~ driver license or driving privilege of a person who is convicted of any offense as provided in paragraph 2 or 6 of subsection A of Section 6-205 of this title, or a person who has refused to submit to a test or tests as provided in Section 753 of this title, or a person whose alcohol concentration is ten-hundredths (0.10) or more as provided in Section 754 of this title, 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 this title 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 this title or under Section 754 of this title shall be for ~~ninety (90)~~ one hundred eighty (180) days, ~~of which the first thirty (30) days shall not~~ may be modified;

3. The first license revocation under paragraph 6 of subsection A of Section 6-205 of this title shall be for one hundred eighty days, which may be modified; provided, for license revocations for a misdemeanor charge of possessing a controlled dangerous substance, the provisions of this paragraph shall apply to any such revocations by the Department on or after January 1, 1993;

4. A revocation pursuant to paragraph 2 or 6 of subsection A of Section 6-205, 753 or 754 of this title 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 or 6 of subsection A of Section 6-205, 753 or 754 of this title as shown by the Department's records. Such period shall not be modified; or

~~4.~~ 5. A revocation pursuant to paragraph 2 or 6 of subsection A of Section 6-205, 753 or 754 of this title 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 or 6 of subsection A of Section 6-205, 753 or

754 of this title 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 this title.

(d) Any appeal shall be governed by Section 6-211 of this title.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 6-205.2, as amended by Section 12, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1992, Section 6-205.2), is amended to read as follows:

Section 6-205.2 A. As used in this section, "person" shall mean a resident of this state or an Oklahoma licensee. Also, as used in this section, "conviction" shall mean:

1. An unvacated adjudication of guilt; or
2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal; or
3. An unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court; or
4. The payment of a fine and court costs; or
5. Violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

B. The Department of Public Safety ~~may~~ 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 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 this

title, or as defined by the state in which the arrest occurred, 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 this title, or as required by the state in which the arrest occurred, 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.

Provided, however, the Department shall not disqualify such person pursuant to this section if said person's driving privilege has previously been disqualified in this state as a result of any violation arising from the same incident.

C. 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 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 this title, or as defined by the state in which the arrest occurred, 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 this title, or as required by the state in which the arrest occurred, 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.

Provided, however, the Department shall not disqualify such person pursuant to this section if said person's driving privilege has previously been disqualified in this state as a result of any violation arising from the same incident.

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 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 this title, or as defined by the state in which the arrest occurred, 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 this title, or as required by the state in which the arrest occurred, 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.

Provided, however, the Department shall not disqualify such person pursuant to this section if said person's driving privilege has previously been disqualified in this state as a result of any violation arising from the same incident.

The Department of Public Safety may promulgate rules 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.

E. 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 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.

F. 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 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 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;
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.

G. 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.

H. Such periods of disqualification as defined by this section shall not be modified. A person may not be granted driving privileges to operate a Class A, B or C commercial vehicle until the disqualification is reinstated.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 6-209, as amended by Section 14, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1992, Section 6-209), is amended to read as follows:

Section 6-209. A. The Department upon suspending, canceling or revoking a ~~driver's~~ driver license shall require that such license be surrendered to the Department. Such ~~driver's~~ driver license so surrendered, unless said ~~driver's~~ driver license has expired, shall be returned to the licensee, when statutory

requirements for reinstatement are met in accordance with Sections 6-212, 6-212.1, 7-506 or 7-605 of this title; provided the Department has determined that the licensee is a person not prohibited from holding a ~~driver's~~ driver license under Section 6-103 of this title, and has successfully completed the customary written, physical and driving tests, if such tests are required.

B. The Department, upon entering an order suspending, canceling, revoking, ~~disqualifying~~, or denying a ~~driver's~~ driver license, shall forward a copy of said order to the licensee pursuant to the provisions of Section 2-116 of this title and request the immediate return of the license to the Department of Public Safety, Oklahoma City, Oklahoma, or the order may be served upon the licensee by an authorized member of the Department. Failure to comply with the order of the Department shall constitute a misdemeanor, and upon conviction thereof such person so convicted shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00).

C. Any peace officer of this state may seize the license of any person who, according to Department records, is under suspension, cancellation, revocation, ~~disqualification~~ or denial under the provisions of Section 6-101 et seq. of this title. The officer shall immediately forward the license to the Department of Public Safety, Oklahoma City, Oklahoma.

SECTION 6. AMENDATORY 47 O.S. 1991, Section 753, is amended to read as follows:

Section 753. If a conscious person under arrest refuses to submit to testing of his or her blood or breath for the purpose of determining the alcohol concentration thereof, or to a test of his or her blood, saliva or urine for the purpose of determining the concentration of any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, none shall be given, unless the investigating officer has probable cause to believe that the person under arrest, while intoxicated, has operated his motor vehicle in such a manner as to have caused the death or serious physical injury of any other person or persons. In such event, such test otherwise authorized by law may

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be made in the same manner as if a search warrant had been issued for such test or tests. The sample shall be taken in a medically acceptable manner at a hospital or other suitable health care facility. The Commissioner of Public Safety, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance and that the person had refused to submit to the test or tests, shall revoke his or her license to drive and any nonresident operating privilege for a period ~~of one hundred eighty (180) days or more~~ as provided by Section ~~2~~ 6-205.1 of this ~~act~~; ~~or if~~ title. If the person is a resident or a nonresident without a license or permit to operate a motor vehicle in this state, the Commissioner of Public Safety shall deny to the person the issuance of a license or permit for a period ~~of one hundred eighty (180) days or more~~ as provided by Section ~~2~~ 6-205.1 of this ~~act~~ title subject to a review as provided in Section 754 of this title. The revocation or denial shall become effective thirty (30) days after the arrested person is given written notice thereof by the arresting officer or by the Department as provided in Section 754 of this title.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 754, is amended to read as follows:

Section 754. A. Any arrested person whose alcohol concentration is ten-hundredths (0.10) or more as shown by a breath test administered according to the provisions of this title, or any arrested person who has refused to submit to a breath or blood test for alcohol concentration, shall immediately surrender his license, permit or other evidence of driving privilege to the arresting law enforcement officer. This officer shall seize any such license, permit or other evidence of driving privilege surrendered by the arrested person or found on the arrested person during a search.

B. If the license, permit or other evidence of driving privilege seized by the officer has not expired and otherwise appears valid to the officer, he shall issue to the arrested person a dated receipt for that license, permit or other evidence of driving privilege on a form prescribed by the Department. This receipt shall be recognized as a license and shall authorize the arrested person to operate a motor vehicle for a period not to exceed thirty (30) days. The receipt form shall contain and constitute a notice of revocation of driving privilege by the Department of Public Safety effective in thirty (30) days. The seized license, permit or other evidence of driving privilege and a copy of the receipt form issued to the arrested person shall be attached to the sworn report of the arresting officer and shall be submitted by mail or in person to the Commissioner of Public Safety or his designated representative within seventy-two (72) hours of the issuance of the receipt. The failure of the arresting officer to timely file this report shall not affect the authority of the Department to revoke the driving privilege of the arrested person.

C. Upon receipt of a written blood or breath test report reflecting that the arrested person had an alcohol concentration of ten-hundredths (0.10) or more, accompanied by a sworn report from a law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, the Commissioner of Public Safety shall revoke the license to drive of the arrested person and any nonresident operating privilege for a period ~~of ninety (90) days or more~~ as provided by Section ~~2~~ 6-205.1 of this ~~act~~ title. If the arrested person is a resident without a license or permit to operate a motor vehicle in this state, the Commissioner shall deny to that person the issuance of a license or permit for a period ~~of ninety (90) days or more~~ as provided by Section ~~2~~ 6-205.1 of this ~~act~~ title. Revocation of the license of the arrested person shall become effective thirty (30) days after the

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arrested person is given written notice thereof by the arresting officer as hereinbefore provided or by the Department as provided in Section 2-116 of this title.

D. Upon the written request of a person whose privilege to drive has been revoked or denied, the Commissioner of Public Safety shall grant the person an opportunity to be heard provided the request is received by the Department within fifteen (15) days after the notice of the revocation is given in accordance with this section or Section 2-116 of this title. Such a request shall also operate to stay the revocation or denial by the Department until the disposition of the hearing unless the person is under suspension or revocation for some other reason. The Department may issue a temporary driving permit pending disposition of the hearing. If the hearing request is not timely filed, the revocation shall be sustained.

E. The hearing shall be before the Commissioner of Public Safety or his authorized agent, in the troop headquarters of the Oklahoma Highway Patrol nearest the county wherein the alleged events occurred for which the person was arrested, unless the Commissioner of Public Safety or his authorized agent directs the hearing be held in some other county; or, the Commissioner or his authorized agent may schedule the hearing by telephone and conduct the hearing by telephone conference call. The hearing may be recorded and its scope shall cover the issues of whether the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, and whether the person was placed under arrest.

1. If the revocation or denial is based upon a breath or blood test result and a sworn report from a law enforcement officer, the scope of the hearing shall also cover the issues as to whether:

- a. the testing procedures used were in accordance with existent rules of the Board of Tests for Alcohol and Drug Influence,
- b. the person was advised that his privilege to drive would be revoked or denied if the test result reflected an alcohol concentration of ten-hundredths (0.10) or more,
- c. the test result in fact reflects such alcohol concentration, and
- d. the breath or blood specimen was obtained from the person within two (2) hours of his arrest;

2. If the revocation or denial is based upon the refusal of the person to submit to a breath or blood test, reflected in a sworn report by a law enforcement officer, the scope of the hearing shall also include whether:

- a. the person refused to submit to the test or tests, and
- b. the person was informed that his privilege to drive would be revoked or denied if the person refused to submit to the test or tests.

F. After the hearing, the Commissioner of Public Safety or his authorized agent shall order the revocation or denial rescinded or sustained.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-7109

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