

SHORT TITLE: Motor vehicles; commercial vehicles; disqualification
for certain violation; emergency.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1002

By: Rozell

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 6-205.2, as last amended by Section 4, Chapter 238, O.S.L. 1993 and 230.6 (47 O.S. Supp. 1993, Section 6-205.2), which relate to driving while disqualified and certain prohibited activities for commercial vehicles; providing for certain disqualification for violating out-of-service order; providing penalty; requiring certain disqualification for second or subsequent offense; providing enhanced penalty; stating penalty for certain employer; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 6-205.2, as last amended by Section 4, Chapter 238, O.S.L. 1993 (47 O.S. Supp. 1993, 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 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; or

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. 1. The Department shall disqualify any person from operating a Class A, B or C commercial motor vehicle for not less than ninety (90) days upon receiving a record of such person's first conviction for violating a lawful out-of-service order, when such conviction has become final. Upon conviction, such person shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00).

2. The Department shall disqualify any person from operating a Class A, B or C commercial motor vehicle for not less than one year nor more than five (5) years upon receiving a record of such person's second conviction for violating a lawful out-of-service order, when such conviction has become final. Upon conviction for a second or subsequent offense, such person shall be guilty of a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00).

3. Any employer who knowingly allows, permits, authorizes or requires an employee to operate a Class A, B or C commercial motor vehicle in violation of a lawful out-of-service order shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00).

H. 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.~~ I. 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 2. AMENDATORY 47 O.S. 1991, Section 230.6, is amended to read as follows:

Section 230.6 A. No person prohibited from operating a commercial vehicle shall operate such commercial motor vehicle, nor shall any person authorize or require a person who has been prohibited from such operation of a motor vehicle to operate a commercial motor vehicle.

B. No person shall operate, authorize, or require the operation of any vehicle or the use of any container that has been marked out of service until all required corrections have been made, except upon approval of the Department such vehicle or container may be moved to another location for the purpose of repair or correction.

C. No person shall remove an out-of-service marking from a transport vehicle or container unless all required corrections have been made and the vehicle or container has been inspected and approved by an authorized officer, employee, or agent of the Department.

D. Violation of any of the provisions of this section shall be punished as provided in subsection G of Section 6-205.2 of this title.

SECTION 3. 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.

44-2-2031

NP