

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1437

By: Smith (David)

AS INTRODUCED

An Act relating to schools; defining terms; requiring reporting of attendance to Department of Public Safety and providing procedures related thereto; requiring notice to certain students; requiring documentation of enrollment status; providing for the denial or cancellation of certain driver's licenses; providing hearing and specifying procedures related thereto; providing for appeal to district court; declaring certain acts to be a misdemeanor; providing for the revocation, denial or suspension of certain driving privileges; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Attendance" means a student is currently receiving a program of education in accordance with school policy, including consideration of any holiday, break between semesters, and other times of nonattendance as scheduled by the school;

2. "Department" means the Oklahoma Department of Public Safety;

3. "Excused absences" means absence from school pursuant to any valid physical or mental illness or pursuant to any lawful excuse as provided in Section 10-105 of Title 70 of the Oklahoma Statutes, but shall not include:

- a. marriage,
- b. suspension or expulsion from school, or
- c. confinement as a result of a public offense;

4. "Necessity" means a person has shown a clear need for a driver's license and cannot attend a program of education due to circumstances beyond the control of the person and the denial of a driver's license to such person would create an undue hardship on the person;

5. "Program of education" means enrollment as a student in a public or private school, vocational/technical training program, a program of education pursuant to Section 4 of Article XIII of the Oklahoma Constitution, a program leading to a Certificate of High School Equivalency recognized by the State Board of Education, or other educational program or training recognized by the State Department of Education;

6. "School" means an educational institution or entity offering a program of education which is recognized by the State Board of Education, the Oklahoma State Regents for Higher Education or other state education authority; and

7. "Student" means a person between fourteen (14) and eighteen (18) years of age enrolled in a program of education of a school.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any school offering a program of education shall submit a nonattendance report to the Department on a form or by a method approved by the Department, which shall contain the name, date of

birth, mailing address, and if known, the driver's license number and other identifying information as prescribed by the Department, of any student between fourteen (14) and eighteen (18) years of age who has accumulated more than ten (10) consecutive or fifteen (15) days or parts of days total unexcused absences during a single semester; provided however, the school shall not be required to report such information to the Department if the school has received credible information that such absence from school was due to:

1. Illness, injury, or other cause beyond the control of the student; or

2. Transfer to or enrollment in another school; or

3. Moving of residence outside the State of Oklahoma.

B. Prior to submitting such nonattendance report to the Department, the school shall send notice to the student on a form furnished or approved by the Department that a report of nonattendance which includes that student's unexcused absences will be submitted to the Oklahoma Department of Public Safety which may result in cancellation or denial of a license to operate a motor vehicle pursuant to this act. The notice shall afford the student, within ten (10) school days of receipt of such notice, the opportunity either to appear in person or to submit in writing reasons which would show that the record of nonattendance is erroneous or other just cause why the student's name should not be included in the report to be submitted to the Department.

C. If the student timely responds to the notice and shows cause why the student's name and other information should not be included on a report to the Department, the school shall omit the name from the report. If the student fails to timely respond to the notice or otherwise fails to show just cause, the school shall report the name of the student to the Department and the Department shall proceed as provided for in Section 3 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. No person under eighteen (18) years of age shall be eligible to apply for a license to operate a motor vehicle unless the person shows sufficient documentation to the Oklahoma Department of Public Safety to satisfy the Department that the applicant:

1. Is enrolled in a program of education as defined in Section 1 of this act;

2. Has received a diploma or a Certificate of Attendance and Completion issued to the person from a secondary school of this state or any other state or has obtained a Certificate of High School Equivalency issued from the State Department of Education; or

3. Is excused from such requirement pursuant to any lawful excuse as provided in Section 10-105 of Title 70 of the Oklahoma Statutes.

B. The Department may, with respect to current attendance in a program of education, require any applicant to obtain written verification from the school on a form furnished or approved by the Department, prior to accepting or processing an application for a driver's license.

C. Upon receipt of a report of student nonattendance submitted by a school pursuant to Section 2 of this act, the Department shall forthwith cancel the driving privileges of each person named thereon and shall within fifteen (15) working days of receipt of such notice, send written notice thereof to the licensee as provided by Section 2-116 of Title 47 of the Oklahoma Statutes. The licensee may thereafter at any time apply for reinstatement of driving privileges by submitting to the Department sufficient documentation as required in subsection A of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any person aggrieved by a denial or cancellation of driving privileges pursuant to Section 3 of this act may submit within thirty (30) days of the denial or of the receipt of notice of cancellation, a written request to the Department for a hearing. The hearing officer, after due consideration of the facts and circumstances, shall issue an appropriate order to the Department to accept an application for a driver's license or to reinstate driving privileges if the person is otherwise eligible and the hearing officer finds that:

1. The person satisfies the documentation requirements of subsection A of Section 3 of this act; or

2. The nonattendance report submitted by the school was erroneous with regard to the person's nonattendance.

If the hearing officer determines that neither reason has been shown, the hearing officer shall sustain the Department's action of license denial or cancellation.

B. Driving privileges which have been denied or canceled by the Department pursuant to this act shall be reinstated upon application therefor when the person attains eighteen (18) years of age.

C. The Department may remove any record of cancellation, denial, and reinstatement pursuant to this act from the individual licensee's file after said licensee's driving privilege is reinstated. The Department may, however, maintain such information as an internal record for statistical and other purposes.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any person aggrieved by an order issued by the Department hearing officer may appeal to the district court in the county of

residence by filing a petition. Additionally or alternatively, the person may petition the court for relief based upon necessity as defined by Section 1 of this act. Upon a finding of necessity, the court may in its discretion issue an order exempting the person from attendance in a program of education as a condition for obtaining or retaining a driver's license.

B. The appeal shall be a de novo hearing. The court shall determine whether the Department action of denial or cancellation of driving privileges should be sustained or vacated pursuant to the provisions of this act and shall enter an appropriate order which either party may appeal as otherwise provided for by law.

C. Any court order issued pursuant to this section shall not purport to grant a license to operate a motor vehicle. The court may, however, direct the Department to accept an application therefor or reinstate driving privileges which have been canceled pursuant to this act, provided the person is otherwise qualified and the person's driving privilege has not otherwise been denied, canceled, suspended or revoked.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any person who creates, writes, publishes, enters, or submits false information relating to the attendance, nonattendance, verification of attendance or enrollment of a person in a school or a program of education, knowing that such information is false, or any person who knowingly aids or abets another in the creation or submission of such information, upon conviction, shall be guilty of a misdemeanor.

B. The Department of Public Safety may revoke, deny or suspend the driving privileges of any person convicted pursuant to subsection A of this section for a period not to exceed three (3) years.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act applies only to eligibility for a driver's license issued on or after the effective date of this act. Eligibility for renewal of a license issued before the effective date of this act is covered by the law in effect November 30, 1993, and that law is continued in effect for that purpose.

SECTION 8. This act shall become effective January 1, 1994.

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