

SHORT TITLE: Motor vehicles; requiring reporting of all convictions having mandatory license revocation; recognizing certain laws to enhance DUI penalty provisions; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 669

By: Long (Lewis)

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S.

1991, Sections 6-204, as amended by Section 9, Chapter 217, O.S.L. 1992, 6-205, as last amended by Section 2, Chapter 238, O.S.L. 1993 and 11-902, as last amended by Section 13, Chapter 276, O.S.L. 1993 (47 O.S. Supp. 1993, Sections 6-204, 6-205 and 11-902), which relate to reporting of convictions, mandatory revocation of driver's license and driving under the influence of alcohol; modifying statutory reference; requiring reporting of all convictions having mandatory license revocation; expanding mandatory license revocation offenses; recognizing laws from other state, or political subdivision of this state or other state, or United States to enhance DUI penalty provisions; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 6-204, as amended by Section 9, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1993, Section 6-204), is amended to read as follows:

Section 6-204. A. Whenever any person is convicted of any offense ~~for which this act makes~~ has a mandatory ~~the~~ revocation of the driver's license of such person by the Department as provided in Section 6-205 of this title, the court in which such conviction

occurred ~~may~~ shall require the surrender to it of all driver's licenses then held by the person so convicted and the court shall thereupon forward the same together with a record of such conviction to the Department.

B. Every court, including courts not of record, having jurisdiction over offenses committed under this ~~act~~ title, or any other ~~act~~ law of this state or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the Department a record of the conviction of any person in said court for a violation of any said laws other than regulations governing standing or parking, and ~~may~~ shall recommend the suspension of the driver's license of the person so convicted according to law.

C. For the purposes of Section 6-101 et seq. of this title, except for Section 6-205.2, the term "conviction" shall mean a final conviction or shall mean a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-205, as last amended by Section 2, Chapter 238, O.S.L. 1993 (47 O.S. Supp. 1993, Section 6-205), is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall forthwith revoke the 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; or

7. Operating a motor vehicle while the person's ability to operate said vehicle is impaired by the consumption of alcohol or other intoxicating substance or the combination of alcohol and other intoxicating substance.

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.

E. A license revocation under any provision of paragraph 7 of subsection A of this section shall be governed by the provisions of Section 761 of this title.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 11-902, as last amended by Section 13, Chapter 276, O.S.L. 1993 (47 O.S. Supp. 1993, Section 11-902), is amended to read as follows:

Section 11-902. A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of ten-hundredths (0.10) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;

2. Is under the influence of alcohol;

3. Is under the influence of any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle; or

4. Is under the combined influence of alcohol and any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.

As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the

Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, and any other substance, other than alcohol, 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.

C. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not more than One Thousand Dollars (\$1,000.00). Any person who within ten (10) years after a previous conviction of a violation of this section or a violation under the provisions of any law of another state or the United States prohibiting the offense provided in subsection A of this section, or any law or ordinance of a political subdivision of this state or another state prohibiting the offense provided in subsection A of this section, is convicted of a second or subsequent offense pursuant to the provisions of this section ~~or has a prior conviction after October 31, 1984, in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted under the provision of this section~~ shall be deemed guilty of a felony and shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years, and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00).

D. When a person is sentenced to the custody of the Department of Corrections, the person shall be processed through the Lexington Assessment and Reception Center. The Department of Corrections shall classify and assign the person to one or more of the following:

1. The Department of Mental Health and Substance Abuse Services pursuant to paragraph 1 of subsection A of Section ~~43~~ 612 of ~~this act~~ Title 57 of the Oklahoma Statutes;

2. The Electronic Monitoring Program pursuant to Section ~~5~~ 510.9 of ~~this act~~ Title 57 of the Oklahoma Statutes with participation in a substance abuse treatment program and follow-up treatment;

3. A correctional facility operated by the Department of Corrections; or

4. Other alternative to incarceration authorized by law.

E. In the event a felony conviction does not result in the person being sentenced to the custody of the Department of Corrections, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the Oklahoma Statutes.

F. The Department of Mental Health and Substance Abuse Services and the Department of Corrections may certify to the Department of Public Safety that a person has successfully completed a treatment program and is successfully complying with any follow-up treatment required by the Department of Corrections. In such case, the person shall be given credit therefor as fulfillment of all provisions of Section 3-453 of Title 43A of the Oklahoma Statutes and shall be permitted to apply for reinstatement of any suspension, revocation, cancellation or denial order withdrawing his privilege to drive.

G. The Department of Public Safety is hereby authorized to reinstate any suspended or revoked license when the applicant meets the statutory requirements which affect his existing driving privilege.

H. Any person who is found guilty of a violation of the provisions of this section may be referred, prior to sentencing, to an alcoholism evaluation facility designated by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility for the evaluation in an amount not to exceed Seventy-five Dollars (\$75.00). The facility shall, within seventy-two (72) hours, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence.

I. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

SECTION 4. This act shall become effective September 1, 1994.

44-2-1345

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