

SHORT TITLE: Motor vehicles; cancellation of driving privilege for persons under eighteen (18) years; including other offense for mandatory revocation; emergency.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 861

By: Leftwich of the Senate

and

Paulk of the House

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 6-107.1, as amended by Section 1, Chapter 238, O.S.L. 1993, 6-107.2 and 6-205, as last amended by Section 2, Chapter 238, O.S.L. 1993 (47 O.S. Supp. 1993, Sections 6-107.1 and 6-205), which relate to cancellation of driving privilege for persons under eighteen (18) years of age, hearing, modification and reinstatement of license and mandatory revocation; including other offense for mandatory revocation of license; setting revocation period for certain offense; modifying language; 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, as amended by Section 1, Chapter 238, O.S.L. 1993 (47 O.S. Supp. 1993, 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 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~~ two (2) years 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, purchase, transportation, distribution, manufacture, trafficking, cultivation or ~~abuse~~ consumption 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 or any crime, violation, infraction, or other offense involving or relating to the possession or use of any firearm or weapon listed in Section 1272 of Title 21 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-107.2, is amended to read as follows:

Section 6-107.2 A. The Department of Public Safety shall prepare and distribute a Notification form to be used by the courts, as provided in Section 6-107.1 of this title. In addition to any

other authority to cancel or deny driving privileges, the Department of Public Safety shall, upon receipt of such completed Notification form from a court, cancel or deny all driving privileges of the person named in the Notification form without hearing, for a period of time recommended by the court.

B. Upon receipt of a second or subsequent Notification from a court relating to the same person, the Department shall cancel or deny driving privileges of the person for a period of ~~one (1) year~~ three (3) years or until the person attains eighteen (18) years of age, whichever is longer.

C. Any person whose driving privileges are canceled or denied pursuant to this section may file a petition for relief based upon error or hardship, except for revocations resulting from firearm or weapon offenses.

1. The petition shall be filed in the district court which notified the Department pursuant to Section 6-107.1 of this title or, if the Notification originated in a municipal court, the petition shall be filed in the district court of the county in which the court is located. A copy of the Notification and a copy of the Department's action canceling or denying driving privileges pursuant to this section, shall be attached to the petition.

2. The district court shall conduct a hearing on the petition and may determine the matter de novo, without notice to the Department, and if applicable, without notice to the municipal court; provided, the district court shall not consider a collateral attack upon the merits of any conviction or determination which has become final.

3. The district court may deny the petition, or in its discretion, issue a written Order to the Department to increase or decrease the period of cancellation or denial to any period or issue a written Order to vacate the Department's action taken pursuant to this section, in its entirety. The content of the Order shall not

grant or purport to grant any driving privileges to the person, however such order may direct the Department of Public Safety to do so if the person is otherwise eligible therefor.

D. Upon receipt of a written Order from the appropriate court, the Department shall modify or reinstate any driving privileges as provided in the Order.

SECTION 3. 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;

7. Any act prohibited by the provisions of Sections 652, 701.7, 1271.1, 1272, 1277 or 1280.1 of Title 21 of the Oklahoma Statutes or any other offense committed with a firearm or weapon or relating to the possession or use of a firearm or weapon prohibited by Section 1272 of Title 21 of the Oklahoma Statutes when committed by a person under eighteen (18) years of age.

B. The first license revocation under any provision of this section except for paragraph 2 ~~or~~, 6 or 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 ~~or~~, 6 or 7 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. The period of license revocation under paragraph 7 of subsection A of this section shall be governed by the provisions of Sections 6-107.1 and 6-107.2 of this title.

SECTION 4. 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.

44-2-1617

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