

SHORT TITLE: Department of Public Safety; license revocation;  
emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1155

By: Hobson

AS INTRODUCED

An Act relating to the Department of Public Safety; amending 47 O.S. 1991, Sections 6-204, as amended by Section 9, Chapter 217, O.S.L. 1992, 6-205.2, as last amended by Section 4, Chapter 238, O.S.L. 1993, and 6-211, as amended by Section 5, Chapter 243, O.S.L. 1994 (47 O.S. Supp. 1995, Sections 6-204, 6-205.2 and 6-211), which relate to report of conviction, period of revocation and right to appeal; 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 6-204, as amended by Section 9, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1995, 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~~ title makes mandatory the revocation of the driver's license of ~~such~~ any person by the Department of Public Safety as provided in Section 6-205 of this title, the court in which ~~such~~ the conviction occurred may 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, or any other act 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 recommend the suspension of the driver's license of the person so convicted.

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 6-205.2, as last amended by Section 4, Chapter 238, O.S.L. 1993 (47 O.S. Supp. 1995, 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,~~ and "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;
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 or she is disqualified or when ~~his~~ the 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 3. AMENDATORY 47 O.S. 1991, Section 6-211, as amended by Section 5, Chapter 243, O.S.L. 1994 (47 O.S. Supp. 1995, Section 6-211), is amended to read as follows:

Section 6-211. A. Any person denied a license, or whose license has been canceled, suspended or revoked by the Department, except where such cancellation, denial or revocation is mandatory, under the provisions of Section 6-205 of this title, shall have the right to file a petition in the district court as hereinafter provided. Such district court is hereby vested with original jurisdiction to hear said petition, except that in case of an appeal from a driver's license revocation under the implied consent laws as provided in Sections 753 and 754 of this title, the court is hereby vested with appellate jurisdiction and shall hear said petition de novo.

B. A person whose driving privilege or license is denied, canceled or suspended due to inability to meet standards prescribed by law, or due to an out-of-state conviction or violation, or due to an excessive point accumulation on the traffic record, or for an unlawful license issued, may appeal in the county in which he or she resides.

C. Any person whose license or driving privilege is canceled, denied, suspended or revoked may appeal to the district court in the county in which the offense was committed upon which the Department based its order.

D. A person whose license is revoked as a result of a test refusal or test result pursuant to Section 753 or 754 of this title may appeal to the district court in the county in which the arrest occurred relating to the test refusal or test result, as shown by the records of the Department.

E. The petition shall be filed in said district court within thirty (30) days after the order has been served upon the licensee except a petition relating to an implied consent revocation shall be filed within thirty (30) days after the Department gives notice to the licensee that the revocation is sustained as provided in Section 754 of this title. It shall be the duty of the district court to enter an order setting same for hearing not less than fifteen (15) days and not more than thirty (30) days from the date the petition is filed. A certified copy of petition and order for hearing shall be served forthwith by the clerk of said court upon the Commissioner of Public Safety by certified mail at the Department of Public Safety, Oklahoma City, Oklahoma.

F. At a hearing on a revocation by the Department under the implied consent laws as provided in Section 6-205.1, 753 and 754 of this title, the court shall not consider the merits of the

revocation action unless a written request for an administrative hearing was timely submitted to the Department as provided in Section 754 of this title and the Department entered an order denying the hearing or sustaining the revocation.

G. Upon a hearing relating to a revocation pursuant to a conviction for an offense listed under Section 6-205 of this title, the court shall not consider the propriety or merits of the revocation action except as to the correct identity of the person convicted as shown by records of the Department.

H. In the event the Department declines to modify a revocation order issued pursuant to Section 753, 754, paragraph 2 of subsection A of Section 6-205 or Section 6-205.1 of this title, a petition therefor may be included with the appeal or separately filed at any time and said district court may in its discretion modify the revocation as provided for in Section 755 of this title.

I. The court shall take testimony and examine the facts and circumstances, including all of the records on file in the office of the Department of Public Safety relative to the offense committed and the driving record of said licensee, and determine from said facts, circumstances and records whether the petitioner is entitled to a license or shall be subject to the order of denial, cancellation, suspension or revocation issued by the Department. The court may also determine whether, from the licensee's previous driving record, said order was for a longer period of time than such facts and circumstances warranted. In case the court finds that the order was not justified, the court may sustain the appeal, vacate the order of the Department and direct that the license be restored to the petitioner. The court may, in case it determines the order was justified, but that the period of the suspension was excessive, enter an order modifying the same.

J. The testimony of any hearing pursuant to this section shall be taken by the court stenographer and preserved for the purpose of appeal and, in case the Department files notice of appeal from the order of the court as provided herein, the court shall order and direct the court clerk to prepare and furnish a complete transcript of all pleadings and proceedings, together with a complete transcript taken at ~~said~~ the hearing at no cost to the Department, except the cost of transcribing.

K. In order to stay or supersede any order of suspension by the Department, the petitioner may at the time of filing ~~his~~ the petition execute and file an appeal bond in the sum of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00) with one or more sureties, with the clerk of the court, to be approved by the court clerk. A certified copy of the bond with the approval of the court clerk endorsed thereon shall be served along with the notice of hearing and petition.

~~Said~~ The bond shall be to the State of Oklahoma and conditioned that appellant will prosecute ~~said~~ the appeal with due diligence and during pendency of ~~said~~ the appeal abide by and not violate any of the laws of the State of Oklahoma in the operation of a motor vehicle on the highways, and that appellant will abide by and perform the final judgment of the court therein, and in case ~~said~~ the appeal is finally denied ~~said~~, the appellant will pay all court costs incurred in said appeal in the district court. If the petitioner is convicted of a traffic offense during the pendency of ~~said~~ the appeal and fails to prosecute ~~said~~ the appeal with due diligence, ~~his~~ the appeal bond may be forfeited to the court fund upon application by the district attorney or the Attorney General and after hearing before the court in which ~~his~~ the appeal is pending.

L. After filing and approval of ~~said~~ the bond and the furnishing thereof to the Department as hereby provided, the Department shall restore to ~~him~~ the person any valid driver's license theretofore surrendered and ~~he~~ that person shall be permitted under such license to operate a motor vehicle upon the highways pending said appeal, under terms and conditions as prescribed in said bond; provided, however, if the order of the Department is sustained in final judgment, the court shall, in such final judgment, enter an order extending the period of suspension or revocation for such time as the appellant was permitted to operate motor vehicles under the provisions of said bonds, and the court shall also in ~~such~~ the final judgment direct and require the immediate surrender ~~to it~~ of ~~such license or~~ any licenses which shall be ~~by the court forthwith~~ forwarded forthwith by the court to the Department of Public Safety.

M. An appeal may be taken by the licensee or by the Department of Public Safety from the order or judgment of the district court to the Supreme Court of the State of Oklahoma. Said appeal shall be taken by either party, by filing in the Supreme Court within twenty (20) days after the date of the final order a petition in error with a complete transcript of the record of said district court, including all the pleadings, proceedings and judgment therein. Provided, that, upon request of the party appealing from ~~said~~ the judgment and upon application made to the district court judge, an order shall be granted directing the court clerk to furnish to ~~said~~ the party all of the original records and transcripts of testimony on file in ~~said~~ the court and ~~said~~ the original court files may then be attached to the petition in ~~said~~ the Supreme Court. ~~Said~~ The appeal shall be heard and presented in the Supreme Court upon said transcript and record, and shall be advanced and set for hearing or

submission on ~~said~~ the record within thirty (30) days after the filing of ~~said~~ the appeal in the Supreme Court.

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.

45-2-2265

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