STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2262 By: Dunegan

AS INTRODUCED

An Act relating to motor vehicles; providing for revocation of driver license under certain circumstances; establishing duration of revocation; providing for appeal of revocation; prohibiting modification; requiring submission of records within certain periods of time; amending 47 O.S. 1991, Section 6-211, as last amended by Section 3, Chapter 420, O.S.L. 1997 (47 O.S. Supp. 1997, Section 6-211), which relates to court appeals; establishing jurisdiction for certain driver license revocation appeals; 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 6-204.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Department of Public Safety shall immediately revoke the driver license or driving privilege of any person, whether adult or juvenile, upon receiving a record of a felony arrest warrant being issued for that person. The license revocation period shall be until there is a final disposition in the felony case in which the

warrant was issued. An appeal may be had from such order of revocation, as provided in Section 6-211 of Title 47 of the Oklahoma Statutes. This period of revocation shall not be subject to modification.

B. Every court having jurisdiction to issue felony arrest warrants within this state shall forward to the Department a record of any felony arrest warrants issued within thirty (30) days of the effective date of this act or within thirty (30) days of the date of the issuance of the felony arrest warrant.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-211, as last amended by Section 3, Chapter 420, O.S.L. 1997 (47 O.S. Supp. 1997, 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. The district court is hereby vested with original jurisdiction to hear said petition, except that in case of an appeal from a driver license revocation under the implied consent laws as provided in Sections 6-205.1, 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 due to an outstanding felony arrest warrant, or for an unlawful license issued, may appeal in the county in which the person 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 the appropriate 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 the matter 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 the 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 pursuant to the implied consent laws as provided in ~~Section~~ Sections 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 enumerated in Section 6-205 of this title, the court shall not consider the propriety or merits of the revocation action, except to correct the 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 for modification may be included with the appeal or separately filed at any time, and the 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 the licensee, and determine from the facts, circumstances, and records whether or not 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 or not, from the licensee's previous driving record, the 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 as provided by law.

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 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 the petition

for appeal 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.

The appeal bond shall be to the State of Oklahoma and conditioned that appellant will prosecute the appeal with due diligence and during pendency of the appeal abide by and not violate any of the laws of this state 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 the appeal is finally denied the appellant will pay all court costs incurred in the appeal in the district court. If the petitioner is convicted of a traffic offense during the pendency of the appeal and fails to prosecute the appeal with due diligence, 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 the appeal is pending.

L. After filing and approval of the appeal bond and the furnishing thereof to the Department as hereby provided, the Department shall restore to the person any valid driver license theretofore surrendered and the person shall be permitted under such license to operate a motor vehicle upon the highways pending the appeal, under terms and conditions as prescribed in the bond which shall include the installation of an ignition interlock device on every motor vehicle operated by the person, if the person was denied modification pursuant to any provision of paragraph 2 of subsection A of Section 6-205 or Section 6-205.1, 753 or 754 of this title; 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 an appeal bond, and the court shall also in such final judgment direct and require the immediate surrender to it of such license or licenses which shall be 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. The 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 the district court, including all the pleadings, proceedings and judgment therein. Provided that, upon request of the party appealing from said judgment and upon application made to the district court judge, an order shall be granted directing the court clerk to furnish to said party all of the original records and transcripts of testimony on file in the court and the original court files may then be attached to the petition in the Supreme Court. 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 record within thirty (30) days after the filing of the appeal in the Supreme Court.

SECTION 3. This act shall become effective November 1, 1998.

46-2-8223 LAC