ENGROSSED SENATE
BILL NO. 1406

By: Crutchfield of the Senate

and

Nance of the House

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 6-105, as last amended by Section 2, Chapter 161, O.S.L. 1999 and 6-114, as amended by Section 4, Chapter 97, O.S.L. 1993 (47 O.S. Supp. 1999, Sections 6-105 and 6-114), which relate to driver licenses; providing for cancellation and denial of identification cards; establishing requirements for proof of identity for persons of specified ages to obtain a replacement license; amending 47 O.S. 1991, Section 6-201, as amended by Section 2, Chapter 139, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-201), which relates to authority to cancel driver licenses; authorizing the Department of Public Safety to cancel an identification card; requiring surrender of cancelled or revoked driver license or identification card; providing appeal process for cancelled driver license or identification card; amending 47 O.S. 1991, Section 6-205.2, as last amended by Section 3, Chapter 229, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-205.2), which relates to revocation of driver licenses; authorizing revocation of certain driver license for fraudulent information; setting period for disqualification; amending Section 1, Chapter 144, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1533.1), which relates to identity theft; expending identity theft to prohibit allowing another person to use personal information to obtain identifying documents; setting penalty; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 6-105, as last amended by Section 2, Chapter 161, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-105), is amended to read as follows:

Section 6-105. A. Unless a custodial parent or guardian has filed an objection to licensure pursuant to Section 6-103.1 of this title, any person under sixteen (16) years of age may be permitted to operate a motor vehicle as provided in this section. Any secondary school student who is in compliance with Section 6-107.3 of this title and:

1. Is at least fifteen (15) years of age may drive during a session in which the driver is being instructed in a driver education course by a certified driver education instructor who is seated in the right front seat of the motor vehicle;

2. Is at least fifteen and one-half (15 1/2) years of age and:

a. is currently receiving instruction in or has successfully completed:

(1) a prescribed secondary school driver education course, as provided for in Sections 19-113 through 19-121 of Title 70 of the Oklahoma Statutes, or

(2) a driver education course, certified by the Department of Public Safety, from a parochial, private, or other nonpublic secondary school, or

(3) a commercial driver training course, as defined by Sections 801 through 808 of this title, or

b. whose parent or legal guardian has certified to the Department by sworn affidavit that the person will receive a minimum of twenty-five (25) hours of actual behind-the-wheel training from a licensed driver who is at least twenty-one (21) years of age and who has been properly licensed to operate a Class D motor vehicle for a minimum of two (2) years,

may, upon successfully passing all parts of the driver license examination administered by the Department except the driving examination, be issued a restricted Class D license which will grant the licensee the privilege to operate a Class D motor vehicle upon the public highways while accompanied by a licensed driver who is at least twenty-one (21) years of age and who is actually occupying a seat beside the restricted Class D licensee;

3. Is at least sixteen (16) years of age and has not completed a driver education course may be issued a restricted Class D license

upon successfully passing all parts of the driver license examinations administered by the Department. A restricted Class D license shall grant to the licensee the privilege to operate a Class D motor vehicle upon the public highways only during daylight hours except for driving to and from work, school, school activities, and church activities, or if a parent or guardian is a passenger in the front seat of the vehicle, the person may drive at any time, and may not operate a motor vehicle with more than one passenger unless all passengers live in the same household or unless the parent or guardian is a passenger in the front seat of the vehicle;

4. Is at least sixteen and one-half (16½) years of age, has been issued a restricted Class D license for a minimum of thirty (30) days, and who has not been convicted of, pled guilty to, or pled no contest to any moving vehicle violations may be issued a Class D license; provided, if the licensee holds a restricted Class D license the licensee must successfully pass a driving examination. The Department shall conduct a driving examination not more than three (3) times during the first six (6) months after date of eligibility of the restricted licensee to have the restriction removed for a Class D license and not more than one time every three (3) months thereafter upon request of the restricted licensee;

5. Is at least sixteen (16) years of age, and has completed driver education or is at least seventeen (17) years of age may be issued a Class D license by successfully passing all parts of the driver license examination if the examinations have not been successfully passed in connection with a restricted Class D license application; or

6. Is at least sixteen (16) years of age, has not completed driver education, and resides in or is enrolled in a school district that does not offer driver education shall be exempt from the driver education requirement for a Class D license and may be issued a

Class D license upon successfully completing all parts of the driver license examination.

B. Restricted Class D licenses shall be issued for the same period as all other driver licenses. The licenses may be suspended or ~~cancelled~~ canceled at the discretion of the Department for violation of restrictions, for failing to give the required or correct information on the application or for violation of any traffic laws of this state pertaining to the operation of a motor vehicle.

C. The Department of Public Safety shall promulgate rules establishing proceedings for removal of the restriction from the license upon the license holder qualifying for an unrestricted license. The restriction shall have no force or effect upon or after the seventeenth birthday of the restricted licensee.

D. Any person fourteen (14) years of age or older may apply for a restricted Class D license with a motorcycle restriction. After the person has successfully passed all parts of the motorcycle examination other than the driving examination and has met all requirements provided for in the rules of the Department, the Department shall issue to the person a restricted Class D license with a motorcycle restriction which shall grant to the person, while having the license in the person's immediate possession, the privilege to operate a motor-driven cycle:

1. With a piston displacement not to exceed one hundred twenty-five (125) cubic centimeters; and

2. Between the hours of 4:30 a.m. to 9:00 p.m. only; and

3. While wearing approved protective headgear; and

4. While accompanied by and receiving instruction from any person who is at least twenty-one (21) years of age and who is properly licensed pursuant to the laws of this state to operate a motorcycle, and who has visual contact with the restricted licensee.

The restricted licensee may apply on or after thirty (30) days from date of issuance of the restricted Class D license with a motorcycle restriction to have the restriction of being accompanied by a licensed driver removed by successfully completing the driving portion of an examination.

E. The Department may in its discretion issue a special permit to any person who has attained the age of fourteen (14) years, authorizing such person to operate farm vehicles between the farm and the market to haul commodities grown on such farm; provided, that such special permit shall be temporary and shall expire not more than thirty (30) days after the issuance thereof. Special permits shall be issued only to farm residents and shall be issued only during the time of the harvest of the principal crops grown on such farm. Provided, however, the Department shall not issue a special permit pursuant to this subsection until the Department is fully satisfied after the examination of the application and other evidence furnished in support thereof, that the person is physically and mentally developed to such a degree that the operation of a motor vehicle by the person would not be inimical to public safety.

F. The Department may issue an instructor's permit to any qualified secondary school driver education instructor as defined by the Oklahoma State Board of Education Rules and Regulations for Oklahoma High School Driver and Traffic Safety Education or any driver education instructor, certified by the Department of Public Safety, of a parochial, private, or other nonpublic secondary school upon a proper application to the State Board of Education or the Department of Public Safety in the case of secondary schools that are not regulated by the State Board of Education or a commercial driver training course instructor as provided for in Sections 801 through 808 of this title. The Department shall promulgate rules for the issuance of such permits. Any instructor as defined in this subsection who has been issued a permit may instruct any person who

is at least fifteen and one-half (15 ½) years of age or who is at least fifteen (15) years of age and of secondary school or higher educational standing while regularly enrolled and certified by the instructor as a student taking a prescribed course of secondary school driver education or a driver education course, certified by the Department of Public Safety, from a parochial, private, or other nonpublic secondary school or a commercial driver training course as defined by Sections 801 through 808 of this title to operate a motor vehicle while accompanied by and receiving instruction from the instructor who is actually occupying a seat beside the driver.

G. In addition to the licenses to operate motor vehicles, the Department may issue cards for purposes of identification only. The identification cards shall be issued ~~and~~, renewed, canceled and denied in the same manner as driver licenses in this state and for a fee of Seven Dollars ($7.00) to any resident of this state. The application for an identification card by any person under the age of sixteen (16) shall be signed and verified by the parent or legal guardian before a person authorized to administer oaths. Such cards shall be valid for a period of four (4) years from the month of issuance; however, the identification cards issued to persons sixty-five (65) years of age or older shall be valid indefinitely from the month of issuance, and no person sixty-five (65) years of age or older shall be charged a fee for an identification card or renewal driver license. The fees derived pursuant to this section shall be apportioned as provided in Section 1104 of this title.

The Oklahoma Tax Commission is hereby authorized to reimburse, from funds available to that agency, each motor license agent issuing an identification card to a person sixty-five (65) years of age or older, an amount not to exceed One Dollar ($1.00) for each card or driver license so issued. The Tax Commission shall develop procedures for claims for reimbursement.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-114, as amended by Section 4, Chapter 97, O.S.L. 1993 (47 O.S. Supp. 1999, Section 6-114), is amended to read as follows:

Section 6-114. A. In the event that a driver license is lost, destroyed or requires the updating of any information, restriction or endorsement displayed thereon, the person to whom such license was issued may obtain a replacement thereof upon payment of the required fee and by furnishing proof of identity to the Department of Public Safety. Proof of identity for a person between the ages of twenty-one (21) and twenty-six (26) shall include at a minimum a birth certificate and a notarized affidavit of another licensed Oklahoma driver over the age of twenty-one (21) which verifies the identity of the applicant. Said affidavit shall contain the verified driver license number of the affiant and shall be sent to the Department of Public Safety for filing. If application is made at a motor license agency or subagency, the agent or subagent shall immediately verify the eligibility of the applicant by contacting the Department for verification and approval, if the applicant will pay the costs of any long distance calls that might be involved. The cost of such replacement license shall be Five Dollars ($5.00), of which Two Dollars ($2.00) shall be apportioned as provided in Section 1104 of this title and Three Dollars ($3.00) shall be remitted to the State Treasurer to be credited to the General Revenue Fund.

B. Any person desiring to add or remove an endorsement or endorsements or a restriction or restrictions to any existing driver license, when authorized by the Department of Public Safety, shall obtain a replacement license with said endorsement or endorsements or said restriction or restrictions change thereon and shall be charged the fee for a replacement license as provided in subsection A of this section.

SECTION. 3 AMENDATORY 47 O.S. 1991, Section 6-201, as last amended by Section 2, Chapter 139, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-201), is amended to read as follows:

Section 6-201. A. The Department of Public Safety is hereby authorized to cancel any ~~person's driving privilege and~~ driver license or identification card issued to any person upon determining that the person ~~was~~:

1. Was not entitled to the issuance of the license ~~or that the person failed~~ or card;

2. Failed to give the required or correct information in the application; or ~~committed~~

3. Committed any fraud in making such application.

Upon such cancellation of a driver license or identification card, the person to whom the license or card was issued shall surrender the license or card so canceled to the Department. The person may apply for a valid driver license or identification card, if the person is otherwise eligible. Any person whose driver license or identification card is revoked under the provisions of this subsection shall have the right to an appeal as provided in Section 6-211 of this title.

B. ~~Upon~~ The Department shall revoke a person's driving privilege for sixty (60) days upon determination by the Department that the person:

1. Used fraudulent information ~~was used~~ to apply for or obtain~~:~~

~~1. A Class A, B or C~~ a driver license~~, the Department shall disqualify the person from operating a Class A, B, or C commercial motor vehicle and from applying for a Class A, B, or C driver license for a minimum of sixty (60) days; or~~

~~2. A Class D driver license, the Department shall cancel the person's driving privilege for a minimum of sixty (60) days.~~

~~C. Upon such cancellation or disqualification, the person shall surrender the driver license so canceled or disqualified to the Department~~ or identification card;

2. Committed or aided another person in the commission of any act provided in paragraph b, c, or e of subsection 1 of Section 6-301 of this title; or

3. Committed or aided another person in the commission of any act provided in paragraph a, b, c, d, e, or f of subsection 2 of Section 6-301 of this title.

Such period of revocation shall not be subject to modification.

~~D.~~ Any person whose driving privilege is ~~canceled or disqualified~~ revoked under the provisions of this ~~section~~ subsection shall have the right to an appeal as provided in Section 6-211 of this title.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 6-205.2, as last amended by Section 3, Chapter 229, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-205.2), is amended to read as follows:

Section 6-205.2 A. As used in this section:

1. "Person" shall mean a resident of this state or an Oklahoma licensee; and

2. "Conviction" shall mean:

a. ~~an unvacated~~ a non-vacated adjudication of guilt,

b. a determination that a person has violated or failed to comply with this section in any court or by the Department of Public Safety following an administrative determination under the provisions of Section 754 of this title,

c. ~~an unvacated~~ a non-vacated forfeiture of bail or collateral deposited to secure a person's appearance in court,

d. the payment of a fine and court costs, or

e. a 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 conviction of any of the following disqualifying 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. Provided, the Department shall not additionally disqualify, pursuant to this subsection, if the person's driving privilege has been disqualified in this state because of a test result or test refusal pursuant to paragraph 1 or 2 of this subsection as a result of the same violation arising from the same incident;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle collision 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.

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 conviction of any of the following disqualifying 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. Provided, the Department shall not additionally disqualify, pursuant to this subsection, if the person's driving privilege has been disqualified in this state because of a test result or test refusal pursuant to paragraph 1 or 2 of this subsection as a result of the same violation arising from the same incident;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle collision 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.

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 conviction in any court of any of the following disqualifying offenses after a former conviction of any of the following disqualifying 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. Provided, the Department shall not additionally disqualify, pursuant to this subsection, if the person's driving privilege has been disqualified in this state because of a test result or test refusal pursuant to paragraph 1 or 2 of this subsection as a result of the same violation arising from the same incident;

4. Knowingly failing to stop and render aid as required under the laws of this state in the event of a motor vehicle collision 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.

The Department of Public Safety may promulgate rules establishing conditions under which a disqualification for life pursuant to the provisions of this subsection 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 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 collision resulting in a fatality;

4. Erratic or unsafe lane changes; or

5. Following too close.

G. Upon the receipt of a person's record of conviction of violating a lawful out-of-service order, except as provided in subsection H of this section, when such conviction becomes final, the Department shall disqualify the driving privilege of such person as follows:

1. The first conviction shall result in a ninety-day disqualification;

2. The second conviction within ten (10) years shall result in a one-year disqualification; and

3. The third or subsequent conviction within ten (10) years shall result in a three-year disqualification.

H. Upon the receipt of a person's record of conviction of violating a lawful out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 P. app. 1801-1813), or while operating motor vehicles designed for transport of more than fifteen passengers, including the driver, when such conviction becomes final, the Department shall disqualify the driving privilege of such person as follows:

1. The first conviction shall result in a one-year disqualification; and

2. The second or subsequent conviction within ten (10) years shall result in a three-year disqualification.

I. <u>Upon determination by the Department that fraudulent information was used to apply for or obtain a Class A, B, or C driver license, the Department shall disqualify the driving privilege of the applicant or licensee for a period of sixty (60) days.</u>

J. 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 such person has been disqualified or when 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.

~~J.~~ K. 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.

~~K.~~ L. When any such record of conviction, as specified in this section, is received by the Department and pertains to a nonresident operator of a Class A, B or C commercial motor vehicle, the Department shall report such conviction to the licensing jurisdiction in which the nonresident's license to operate such commercial vehicle was issued or the nonresident's jurisdiction of residence.

SECTION 5. AMENDATORY Section 1, Chapter 144, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1533.1), is amended to read as follows:

Section 1533.1 A. It is unlawful for any person to willfully and with fraudulent intent obtain the name, address, social security number, date of birth, or any other personal identifying information of another person, living or dead, with intent to use, sell, or allow any other person to use or sell such personal identifying information to obtain or attempt to obtain credit, goods, property, or service in the name of the other person without the consent of that person.

B. It is unlawful for any person to use with fraudulent intent the personal identity of another person, living or dead, or any information relating to the personal identity of another person, living or dead, to obtain or attempt to obtain credit or anything of value.

C. It is unlawful for any person with fraudulent intent to lend, sell, or otherwise offer the use of such person's own name, address, social security number, date of birth, or any other personal identifying information or document to any other person with the intent to allow such other person to use the personal identifying information or document to obtain or attempt to obtain any identifying document in the name of such other person.

D. Any person convicted of violating any provision of this section shall be guilty of identity theft. Identity theft is a felony offense.

SECTION 6. This act shall become effective November 1, 2000.

Passed the Senate the 6th day of March, 2000.

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President of the Senate

Passed the House of Representatives the ____ day of _____, 2000.

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Speaker of the House of Representatives