HOUSE OF REPRESENTATIVES
Wednesday, March 24, 1999

ENGROSSED

Senate Bill No. 335

As Amended

ENGROSSED SENATE BILL NO. 335 -- By SMITH of the Senate and LIOTTA of the House.

AN ACT RELATING TO PUBLIC SAFETY; AMENDING 11 O.S. 1991, SECTION 14-112, WHICH RELATES TO CANCELLATION OR DENIAL OF DRIVING PRIVILEGES; MODIFYING AUTHORITY OF MUNICIPAL COURT; AMENDING 47 O.S. 1991, SECTIONS 6-201 AND 6-211, AS LAST AMENDED BY SECTION 3, CHAPTER 420, O.S.L. 1997 (47 O.S. SUPP. 1998, SECTION 6-211), WHICH RELATE TO DRIVING PRIVILEGES; CLARIFYING LANGUAGE; ADDING TYPE OF DRIVER LICENSE FOR WHICH PERSON CAN BE DISQUALIFIED FOR CERTAIN OFFENSE; PROVIDING FOR CERTAIN EXEMPTIONS; PROVIDING FOR CERTAIN EXCEPTIONS; MODIFYING CERTAIN APPEAL PROCEDURES; DELETING OBSOLETE LANGUAGE; MODIFYING BOND; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 14-112, is amended to read as follows:

Section 14-112. A. As used in this section:

1. "Department" means the Department of Public Safety;

2. "Notification form" means a form prescribed by the Department which contains a statement from the court that the person has failed to satisfy the sentence of the court. It shall include the name, date of birth, physical description, and the ~~driver's~~ driver license number, if any, of the person;

3. "Reinstatement form" means a form prescribed by the Department which contains a statement from the court that the person has satisfied the sentence of the court. It shall include sufficient information to identify the person to the Department;

4. "Sentence" means any order of the court to pay a fine, penalty assessment or costs or to carry out a term of community service or other remedial action.

B. When any person under the age of eighteen (18) years fails or refuses to satisfy a sentence of a municipal court, the court shall notify the Department. Upon receipt of the notification form from the court, the Department shall cancel or deny all driving privileges of the person without a hearing until the person satisfies the sentence of the court.

C. When the person fulfills the sentence of the court, the court or court clerk shall provide a reinstatement form to such person either directly or by first class mail, postage prepaid, at the last address given by the person to the court. The driving privileges of a person who furnishes a reinstatement form to the Department shall be granted or reinstated, if the person is otherwise eligible, in accordance with law. Upon such granting or reinstatement of driving privileges, the Department may remove any record of the denial or cancellation of driving privileges as provided for in this section from the file of the person and maintain an internal record of the denial or cancellation for fiscal or other purposes.

~~D. At the time of sentencing the person, the court may take custody of the driver's license of the person until the terms of the sentence are fulfilled. In such case, the court shall issue to the person a receipt for the license. Additionally, the court may notify the parents or other custodian of the person of the terms of the sentence or any notice to the Department.~~

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-201, is amended to read as follows:

Section 6-201. A. The Department of Public Safety is hereby authorized to cancel any ~~driver's~~ person's driving privilege and driver license upon determining that the ~~licensee~~ person was not entitled to the issuance ~~thereof hereunder~~ of the license or that ~~said licensee~~ the person failed to give the required or correct information in ~~his~~ the application or committed any fraud in making such application.

B. Upon determination that fraudulent information was used to apply for or obtain ~~a~~:

1. A Class A, B, or C ~~driver's~~ driver license, the Department shall disqualify ~~said applicant or licensee~~ the person from operating a Class A, B, or C commercial motor vehicle and from applying for ~~said~~ a Class A, B, or C ~~driver's~~ 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 ~~licensee must~~ person shall surrender the ~~driver's~~ driver license so canceled or disqualified to the Department.

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

SECTION 3. AMENDATORY 47 O.S. 1991, Section 6-211, as last amended by Section 3, Chapter 420, O.S.L. 1997 (47 O.S. Supp. 1998, Section 6-211), is amended to read as follows:

Section 6-211. A. Any person denied ~~a license~~ driving privileges, or whose ~~license~~ driving privilege has been canceled, denied, suspended or revoked by the Department, except where such cancellation, denial, suspension or revocation is

mandatory, under the provisions of Section 6-205 of this title, shall have the right ~~to file a petition in~~ of appeal to the district court as hereinafter provided. Proceedings before the district court shall be exempt from the provisions of the Oklahoma Pleading and Discovery codes, except that the appeal shall be by petition, without responsive pleadings. 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 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, revoked 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 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~~ driving privilege is revoked ~~as a result of a test refusal or test result~~ or denied or who is denied a hearing 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~~ person, except a petition relating to an implied consent revocation shall be filed within thirty (30) days after the Department gives notice to the ~~licensee~~ person 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 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 and the person actually exercised the opportunity to appear 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, Section 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~~ person, and determine from the facts, circumstances, and records whether or not the petitioner is entitled to ~~a license~~ driving privileges 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~~ person'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~~ driving privileges be restored to the petitioner, if otherwise eligible. The court may, in case it determines the order was justified, but that the period of the suspension or revocation 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~~ a cash 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 endorsed 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~~ the petitioner 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 or any

other state in the operation of a motor vehicle ~~on the highways~~, and that ~~appellant~~ the petitioner 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~~ or 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~~ Department 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 driving privileges to the person ~~any valid driver license theretofore surrendered~~ if otherwise eligible, 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~~ petitioner 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~~ any driver 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~~ person 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 as otherwise provided by law. ~~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 4. This act shall become effective November 1, 1999.