

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2007

By: Erwin

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 22 O.S. 2001, Section 1115.1, which relates to release on personal recognizance; specifying person to be released at scene; amending 47 O.S. 2001, Section 6-303, which relates to driving with no license or when privileges are withdrawn; specifying circumstances under which person shall be released at scene; authorizing dismissal of charge without payment of costs under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 1115.1, is amended to read as follows:

Section 1115.1 A. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer solely for ~~a~~ one or more misdemeanor ~~violation~~ violations of ~~a~~ state traffic law or municipal traffic ordinance, shall be released at the scene by the arresting officer upon personal recognizance, if:

1. The arrested person:

- a. has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States, which is a participant in the Nonresident Violator Compact or any party jurisdiction of the Nonresident Violator Compact, or
- b. has been issued a noncommercial driver license, as prescribed in subparagraph a of this paragraph, and:
 - (1) the license is expired for a period of six (6) months or less, and

(2) the person has been arrested solely for the single violation of driving with an expired license;

2. The arresting officer is satisfied as to the identity of the arrested person;

3. The arrested person signs a written promise to appear as provided for on the citation, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician; and

4. The violation does not constitute:

- a. a felony, or
- b. negligent homicide, or
- c. driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician, or
- d. eluding or attempting to elude a law enforcement officer, or
- e. operating a motor vehicle:

(1) without having been issued a valid driver license,

(2) with an expired Class D driver license, if the license is expired for a period of more than six (6) months, or

(3) while the driving privilege ~~and~~ or driver license is under suspension, revocation, denial or cancellation, or

(4) while the driving privilege or driver license is under disqualification for the class of vehicle

the person was operating at the time of the
arrest, or

- f. an arrest based upon an outstanding warrant, or
- g. a traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph, or
- h. an overweight violation, or the violation of a special permit exceeding the authorized permit weight, or
- i. a violation relating to the transportation of hazardous materials.

B. If the arrested person is eligible for release on personal recognizance as provided for in subsection A of this section, then the arresting officer shall:

- 1. Designate the traffic charge;
- 2. Record information from the arrested person's driver license on the citation form, including the name, address, date of birth, personal description, type of driver license, driver license number, issuing state, and expiration date;
- 3. Record the motor vehicle make, model and tag information;
- 4. Record the arraignment date and time on the citation; and
- 5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's driving privilege and driver license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request

of the arrested person or the attorney for that person. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time. Provided, however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in subsection D of this section.

D. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before the defendant is required to appear for arraignment by indicating such plea on the copy of the citation furnished to the defendant or on a legible copy thereof, together with the date of the plea and signature. The defendant shall be responsible for assuring full payment of the fine and costs to the appropriate court clerk. Payment of the fine and costs may be made by personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in an amount prescribed as bail for the offense. Provided, however, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be:

1. As prescribed in Section 1115.3 of this title as bail for the violation; or
2. In case of a municipal violation, as prescribed by municipal ordinance for the violation charged; or

3. In the absence of such law or ordinance, then as prescribed by the court.

E. 1. If, pursuant to the provisions of subsection D of this section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the Department of Public Safety that:

- a. the defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation,
- b. the defendant has failed to appear for arraignment without good cause shown,
- c. the defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation, and
- d. the citation has not been satisfied as provided by law.

Additionally, the court clerk shall request the Department of Public Safety to either suspend the defendant's driving privilege and driver license to operate a motor vehicle in this state, or notify the defendant's home state and request suspension of the defendant's driving privilege and driver license in accordance with the provisions of the Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the Department of Public Safety.

2. The court clerk shall not process the notification and request provided for in paragraph 1 of this subsection if, with respect to such charges:

- a. the defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case, or
- b. the defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this section or if released, was not permitted to remain on such personal recognizance for arraignment, or
- c. the violation relates to parking or standing, an overweight violation, an overweight permit or the transportation of hazardous materials, or
- d. a period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

F. Following receipt of the notice and request from the court clerk for driving privilege and driver license suspension as provided for in subsection E of this section, the Department of Public Safety shall proceed as provided for in Section 1115.5 of this title.

G. The municipal or district court clerk shall maintain a record of each request for driving privilege and driver license suspension submitted to the Department of Public Safety pursuant to the provisions of this section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if the defendant personally appears, or shall mail such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall, in all other cases, notify

the Department, of the resolution of the case. The form of proof and the procedures for notification shall be approved by the Department of Public Safety. Provided, however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the State of Oklahoma or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-303, is amended to read as follows:

Section 6-303. A. 1. No person shall operate a motor vehicle upon the public roads, streets, highways, turnpikes or other public place of this state without having first procured a driver license for the class of vehicle being operated from the Oklahoma Department of Public Safety except as ~~herein~~ specifically exempted in this chapter.

2. When any law enforcement officer issues to any person a traffic citation for driving with an expired noncommercial driver license when the license is expired for six (6) months or less, as evidenced by the expiration date on the license presented to the officer, the person shall be released at the scene, if:

- a. no other citation for any other offense arising out of the same incident is written by the officer who issues the citation,
- b. the driving privilege or driver license of the person is not suspended, revoked, denied, or cancelled at the time the citation is written, as evidenced by a review by the officer of the driving record of the person,
- c. the person has not been previously cited for driving with an expired noncommercial driver license during the same period of expiration,

- d. the person is operating a Class D motor vehicle,
- e. the person meets all other applicable requirements of Section 1115.1 of Title 22 of the Oklahoma Statutes,
and
- f. the person appears to be otherwise eligible for driving privileges to proceed from the location where the citation was issued,

Any person cited under this paragraph and producing proof in court that the Class D driver license of that person has been renewed as provided by law shall be entitled to dismissal of the charge upon payment of court costs; however, if proof of Class D driver license renewal is presented to the court within three (3) business days after the violation, the charge shall be dismissed without payment of fine and court costs.

3. Paragraph 2 of this subsection shall not be construed to:

- a. authorize any person to knowingly drive with an expired Class D driver license,
- b. to place any undue burden on or to supersede any policy, procedure, contract, agreement, or other binding matter of:
 - (1) the insurance company of the person,
 - (2) the employer of the person,
 - (3) any other person with whom the person does business which requires the display of a valid driver license for the completion of a commercial transaction, or
 - (4) any governmental agency or entity with whom the person conducts official business which requires the display of a valid driver license for the completion of a transaction, or
- c. to limit the authority of any law enforcement officer in any manner or to deter such officer in the

performance of the lawful duties and responsibilities
of the officer.

4. Any violation of the provisions of this subsection shall constitute a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars (\$300.00) plus costs or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

B. Any person who drives a motor vehicle on any public roads, streets, highways, turnpikes or other public place of this state at a time when his privilege to do so is canceled, denied, suspended or revoked or at a time when he is disqualified from so doing 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 on the highways as prohibited shall constitute a separate offense.

C. Any person who drives a motor vehicle on any public roads, streets, highways, turnpikes or other public roads of this state at a time when the driving privilege of that person is canceled, denied, suspended or revoked, pursuant to paragraph 1, 2, or 3 of subsection A of Section 6-205.1 of this title, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year or by both such fine and imprisonment. Each act of driving on the highways as prohibited shall constitute a separate offense.

D. The Department upon receiving a record of conviction of an offense committed by any person whose license or privilege to operate motor vehicles is under suspension or revocation or who is disqualified from operating a motor vehicle, shall extend the period

of such disqualification, suspension or revocation for an additional three-month period of time. The additional orders of suspension, disqualification or revocation shall be dated and become effective the day following the date terminating the prior order of suspension, disqualification or revocation.

E. The Department upon receiving a record of conviction of an offense committed by any person whose license or privilege to operate motor vehicles is under suspension or revocation or who is disqualified from operating a motor vehicle, pursuant to paragraph 1, 2, or 3 of subsection A of Section 6-205.1 of this title, shall extend the period of such disqualification, suspension or revocation for an additional four-month period of time. The additional orders of suspension, disqualification or revocation shall be dated and become effective the day following the date terminating the prior order of suspension, disqualification or revocation.

F. It shall be a misdemeanor, punishable by imprisonment for not less than seven (7) days, nor more than six (6) months or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment for any person to apply for a renewal or a replacement license to operate a motor vehicle while his license, permit or other evidence of driving privilege is in the custody of a law enforcement officer or the Department. A notice regarding this offense and the penalty therefor shall be included on the same form containing the notice of revocation issued by the officer.

SECTION 3. This act shall become effective November 1, 2002.

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