

ENROLLED HOUSE  
BILL NO. 2067

By: Covey of the House

and

Capps of the Senate

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 6-205.2, which relates to periods of revocation; specifying periods of disqualification upon conviction of certain offenses regarding railroad crossings; amending 47 O.S. 2001, Section 11-701, which relates to obedience to signal indicating approach of train; requiring operators of certain vehicles to slow down and check that track is clear; prohibiting operators of certain vehicles from negotiating railroad crossings under certain circumstances; amending 47 O.S. 2001, Section 230.6, which relates to the Motor Carrier Safety and Hazardous Materials Transportation Act; expanding actions which constitute a violation of law; changing civil penalties to administrative penalties; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 6-205.2, is amended to read as follows:

Section 6-205.2 A. As used in this section, "conviction" means:

1. A nonvacated adjudication of guilt;
2. 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 230.6 or 754 of this title;
3. A nonvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;
4. The payment of any fine and court costs; or
5. 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 provided a previous lifetime disqualification has not been reduced.

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 fifteen (15) miles per hour or more 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. 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.

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.

K. Upon the receipt of the record of a conviction of a person of a railroad highway grade crossing offense in a commercial motor vehicle pursuant to Sections 11-701 or 11-702 of this title or Section 3 of this act, or upon receipt of an equivalent conviction from any state, when the conviction becomes final, the Department shall disqualify the driving privileges of the person convicted as follows:

1. The first conviction shall result in disqualification for sixty (60) days;

2. The second conviction within three (3) years shall result in disqualification for one hundred twenty (120) days; and

3. The third or subsequent conviction within three (3) years shall result in disqualification for one (1) year.

L. 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.

~~L.~~ M. 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 not disqualify the person and shall report such conviction to the licensing jurisdiction in which the nonresident's license to operate such commercial vehicle was issued.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 11-701, is amended to read as follows:

Section 11-701. ~~(a)~~ A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

3. A railroad train approaching within approximately one thousand five (1,500) hundred feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing; or

5. The tracks at the crossing are not clear.

~~(b)~~ B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed or fail to obey the directions of a law enforcement officer at the crossing.

C. The operator of any Class A, B, or C commercial vehicle not required to stop at all railroad crossings, as prescribed in Section 11-702 of this title, shall slow down and check that the tracks are clear of an approaching train.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-1115 of Title 47, unless there is created a duplication in numbering, reads as follows:

At a railroad-highway grade crossing, a person operating a Class A, B or C commercial motor vehicle shall not negotiate the crossing if there is:

1. Insufficient space to drive completely through the crossing without stopping; or

2. Insufficient clearance for the undercarriage of the vehicle.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 230.6, is amended to read as follows:

Section 230.6 A. No person prohibited from operating a commercial vehicle shall operate such commercial motor vehicle, nor shall any person authorize or require a person who has been prohibited from such operation of a motor vehicle to operate a commercial motor vehicle.

B. No person shall operate, authorize, or require the operation of any vehicle or the use of any container that has been marked out of service until all required corrections have been made, except upon approval of the Department such vehicle or container may be moved to another location for the purpose of repair or correction.

C. No person shall remove an out-of-service marking from a transport vehicle or container unless all required corrections have been made and the vehicle or container has been inspected and approved by an authorized officer, employee, or agent of the Department.

D. No employer shall knowingly allow, require, permit or authorize an employee to operate a commercial motor vehicle ~~during any period:~~

1. ~~In~~ During any period in which the employee:

- a. has had driving privileges to operate a commercial motor vehicle suspended, revoked, canceled, denied or disqualified,
- b. has had driving privileges to operate a commercial motor vehicle disqualified for life,
- c. is not licensed to operate a commercial motor vehicle, or
- d. has more than one commercial driver license; ~~or~~

2. ~~In~~ During any period in which the employee, the commercial motor vehicle which the employee is operating, the motor carrier business or operation, or the employer is subject to an out-of-service order; or

3. In violation of a federal, state, or local law, regulation, or ordinance pertaining to railroad-highway grade crossings.

E. An employer who is determined by the Commissioner to have committed a violation of subsection D of this section shall be subject to ~~a civil~~ an administrative penalty of not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Ten Thousand Dollars (\$10,000.00).

F. An employee who is determined by the Commissioner to have committed a violation of any provision of this section shall be subject to ~~a civil~~ an administrative penalty of not less than One Thousand Dollars (\$1,000.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00).

SECTION 5. This act shall become effective October 1, 2002.

Passed the House of Representatives the 30th day of April, 2002.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 22nd day of April, 2002.

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Presiding Officer of the Senate