

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1086

By: Mitchell

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Section 6-205.2, as last amended by Section 9, Chapter 277, O.S.L. 2000 (47 O.S. Supp. 2000, Section 6-205.2), which relates to periods of driver license revocations; modifying definitions; modifying provisions regarding disqualifications for commercial driver licenses; amending 47 O.S. 1991, Section 11-702, as amended by Section 6, Chapter 201, O.S.L. 1997 (47 O.S. Supp. 2000, Section 11-702), which relates to vehicles required to stop at railroad crossings; requiring commercial vehicles placarded for hazardous materials to stop; amending 47 O.S. 1991, Section 12-409, which relates to transporting explosives and flammable substances; requiring vehicles to be in compliance with federal law; amending 47 O.S. 1991, Section 14-111, which relates to weighing vehicles; eliminating requirement for unloading under certain circumstances; amending 47 O.S. 1991, Sections 230.6, as amended by Section 3, Chapter 345, O.S.L. 1998, and 230.13 (47 O.S. Supp. 2000, Section 230.6), which relate to motor carrier safety and transportation of hazardous materials; stating that enforcement actions against employers and employees shall be administrative; eliminating obsolete language; providing for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 6-205.2, as last amended by Section 9, Chapter 277, O.S.L. 2000 (47 O.S. Supp. 2000, 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, "conviction" means:~~

~~a. a~~

~~1. A non-vacated adjudication of guilt;i~~

~~b. a~~

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 ~~754~~ 230.6 of this title~~;~~;

~~e.~~ a ~~non-vacated~~

3. A nonvacated forfeiture of bail or collateral deposited to secure a person's appearance in court~~;~~;

~~d.~~ the

4. The payment of a fine and court costs~~;~~; or

~~e.~~ a

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 ~~in excess~~ of 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. 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. 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 who is properly licensed by another state for the class of vehicle operated, 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 ~~or the nonresident's jurisdiction of residence.~~

SECTION 2. AMENDATORY 47 O.S. 1991, Section 11-702, as amended by Section 6, Chapter 201, O.S.L. 1997 (47 O.S. Supp. 2000, Section 11-702), is amended to read as follows:

Section 11-702. ~~(a)~~ A. The driver of any ~~motor~~:

1. Motor vehicle carrying passengers for hire, ~~or of any bus,~~;
2. Bus, as that term is defined in Section 1-105 of this title, owned or operated by a licensed child care facility while carrying children, ~~or of any school;~~
3. School bus carrying any school child, ~~or of any;~~
4. Motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo; or
5. Commercial motor vehicle required to be placarded for hazardous materials,

before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

~~(b)~~ B. No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 12-409, is amended to read as follows:

Section 12-409. Vehicles transporting ~~explosives, flammable liquids in cargo tanks, or compressed gases~~ hazardous materials as a cargo or part of a cargo, ~~excluding compressed gas cylinders~~

~~transported on service vehicles, shall at all times comply with the provisions of this section. be:~~

1. ~~Said vehicle shall be conspicuously and legibly marked or placarded on each side and the rear with the words "Explosive," "Flammable," "Compressed Gas" or "Flammable Compressed Gas" as applicable in letters at least six (6) inches high, or shall be marked Marked or placarded in accordance with Section 77.823 of the Interstate Commerce Commission Regulations 49 C.F.R. Section 177.823; and~~

2. ~~Each such vehicle shall be provided Equipped with at least one portable fire extinguisher having at least a 12-B, C rating or when more than one is provided each extinguisher will have at least a 6-B, C rating, provided however, that each combination truck tractor and semitrailer unit transporting flammable liquids or flammable compressed gas in bulk shall be equipped with at least one portable fire extinguisher having at least a 6-B, C rating in or on the tractor, and at least one portable fire extinguisher having at least a 12-B, C rating at a convenient location on the trailer. Ratings shall be in accordance with the NFPA Standards for Installation, Maintenance and Use of Portable Fire Extinguishers, No. 10 extinguishers in accordance with 49 C.F.R. Section 393.95(a).~~

3. ~~The Commissioner is hereby authorized and directed to promulgate such additional regulations governing the transportation of explosives, flammable liquids and other dangerous articles, except liquified petroleum gas and anhydrous ammonia, by vehicles upon the highways as he shall deem advisable for the protection of the public.~~

SECTION 4. AMENDATORY 47 O.S. 1991, Section 14-111, is amended to read as follows:

Section 14-111. ~~(a)~~ A. Any officer of the Department of Public Safety, the Oklahoma Tax Commission, any sheriff, or any salaried deputy sheriff is authorized to stop any vehicle upon any road or

highway in order to weigh such vehicle by means of portable or stationary scales, or cause the same to be weighed by any official weigher, or upon any privately owned scales and may require that such vehicles be driven to the nearest or most convenient available scales for the purpose of weighing. In the event that any axle weight or the gross weight of any such vehicle be found to exceed the maximum weight authorized by law, or by permit issued therefor, ~~said~~ the officer ~~shall~~ may require, in the case of separable loads, the driver, operator or owner thereof to unload at the site such portion of the load as may be necessary to decrease the weight of such vehicle to the maximum weight authorized by law. Provided, however, that if such load consists of livestock, perishable merchandise, or merchandise that may be destroyed by the weather, then the driver shall be permitted to proceed to the nearest practical unloading point in the direction of destination before discharging such excess cargo. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

~~(b)~~ B. The operator of any truck or other vehicle transporting farm products or other merchandise for hire shall have in his possession a certificate carrying the following information: name of the operator; ~~driver's~~ driver license number; vehicle registration number; Corporation Commission permit number; statement of owner authorizing transportation of the products by above named operator; and signature of the owner.

Should the vehicle be loaded with livestock, the certificate shall include the number of animals, and should said livestock be the property of more than one person, a certificate signed by each owner carrying the above information including the number of animals owned by them shall be carried by the operator. Should the operator be the owner of the merchandise or livestock, said merchandise or livestock having just been purchased, he shall have in his

possession a bill of sale for such merchandise or livestock. Should the operator be the owner of livestock or other farm products produced by him, he shall be required to show satisfactory identification and ownership of the vehicle. Any officer as outlined in this chapter shall have the authority to stop any vehicle loaded with livestock, merchandise or other farm products and investigate as to the ownership of said merchandise, livestock or other farm products. Should the operator of any vehicle be unable to establish to the satisfaction of the officer the ownership of the merchandise, livestock or other products, or shall not have certificate signed by the owner as specified in this section for the transportation of such merchandise, livestock or other farm products, said merchandise, livestock or other farm products and the vehicle in which they are being transported shall be impounded by said officer and any expense as to the care of any livestock shall be the responsibility of the owner or operator of said vehicle, any loss or damage of said merchandise, livestock or other farm products shall be the responsibility of the operator or owner, or both.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 230.6, as amended by Section 3, Chapter 345, O.S.L. 1998 (47 O.S. Supp. 2000, 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 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 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.

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

SECTION 6. AMENDATORY 47 O.S. 1991, Section 230.13, is amended to read as follows:

Section 230.13 ~~A.~~ The Department of Public Safety and the Oklahoma Highway Patrol Division shall enforce the provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act and the rules ~~and regulations issued~~ promulgated thereto.

~~B. Provided however, no enforcement action against a motor carrier or other person pursuant to the provisions of this act shall be initiated by the Department or the Oklahoma Highway Patrol until such time as enabling legislation may be adopted following the filing of a report by the Department as provided in subsection C of this section.~~

~~C. The Department shall, on or before 1 January 1987, compile and file with the State Archivist, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, a report relating to motor carrier safety and the transportation of hazardous materials, which shall include recommendations for enforcement procedures and a list of proposed specific offenses with recommended penalties.~~

SECTION 7. RECODIFICATION 47 O.S. 1991, Section 22.5s, shall be recodified as Section 1133.2 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 8. This act shall become effective November 1, 2001.

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