

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1993

By: Jackson of the House

and

Wyrick of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public safety; amending 47 O.S. 2001, Sections 6-106, as last amended by Section 4, Chapter 390, O.S.L. 2004, 6-110, as last amended by Section 46 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature, 6-205.2, as last amended by Section 8, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Sections 6-106 and 6-205.2), which relate to driver licenses; deleting statutory reference; requiring certain applicants to submit to a national criminal history records search; deleting certain effective date; amending 47 O.S. 2001, Sections 7-302, 7-316, 7-330 and 7-700, which relate to financial responsibility; increasing amounts required to show proof of financial responsibility and satisfaction of certain judgments; clarifying language for suspension following reinstatement; amending 47 O.S. 2001, Sections 10-104, 10-108 and 10-115, which relate to accidents and accident reports; modifying requirements for drug and alcohol testing; modifying time requirement for submission of certain information; modifying statutory references; clarifying language; amending 47 O.S. 2001, Sections 11-309, as amended by Section 22, Chapter 397, O.S.L. 2002, 11-810 and 11-1302, as amended by Section 1, Chapter 270, O.S.L. 2004 (47 O.S. Supp. 2004, Sections 11-309 and 11-1302), which relate to rules of the road; modifying requirements for driving on roadways laned for traffic; prohibiting reports to driving records under certain circumstances; modifying definition of certain phrase; modifying merge requirements; amending 47 O.S. 2001, Section 40-102, as last amended by Section 56 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature, which relates to highway safety code ancillaries; establishing time limitations for submission of collision reports; amending 47 O.S. 2001, Section 752, as last amended by Section 21, Chapter 418, O.S.L. 2004, Section 754, as amended by Section 22, Chapter 418, O.S.L. 2004 and 754.1, as amended by Section 60 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature (47 O.S. Supp. 2004, Sections 752 and 754), which relate to administration of tests, seizure,

modification of revocation, or denial of driver license; modifying provision that requires written authorization; providing statutory references; deleting statutory references; modifying scope of hearing issues; modifying exceptions for installation of ignition interlock device; requiring written, notarized statement from employer; amending Section 1 of Enrolled House Bill No. 1304 of the 1st Session of the 50th Oklahoma Legislature, which relates to ignition interlock devices; modifying requirements for installation on certain vehicles; requiring written, notarized statement from employer; repealing 47 O.S. 2001, Section 1-136.1, which relates to definition of motorized bicycle; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 6-106, as last amended by Section 4, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, Section 6-106), is amended to read as follows:

Section 6-106. A. 1. Every application for a driver license or identification card shall be made by the applicant upon a form furnished by the Department of Public Safety.

2. Every original, renewal, or replacement application for a driver license or identification card made by a male applicant who is at least sixteen (16) but less than twenty-six (26) years of age shall include a statement that by submitting the application, the applicant is consenting to registration with the Selective Service System. The pertinent information from the application shall be forwarded by the Department to the Data Management Center of the Selective Service System in order to register the applicant as required by law, with the Selective Service System. Any applicant refusing to sign the consent statement shall be denied a driver license or identification card.

3. Every applicant for a driver license or identification card shall provide to the Department at the time of application both primary and secondary proofs of identity. The Department shall

promulgate rules prescribing forms of primary and secondary identification acceptable for an original Oklahoma driver license.

B. Every applicant for a driver license shall state upon the application the following information:

1. Full name;
2. Date of birth;
3. Sex;
4. Residence address, county of residence, and mailing address, if different than the residence address;
5. Medical information, as determined by the Department, which shall assure the Department that the person is not prohibited from being licensed as provided by paragraph 7 of subsection A of Section 6-103 of this title;
6. Whether the applicant is deaf or hard-of-hearing;
7. A brief description of the applicant, as determined by the Department;
8. Whether the applicant has previously been licensed, and, if so, when and by what state or country, and whether any ~~such~~ license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for ~~such~~ the suspension, revocation or refusal;
9. Whether the applicant is an alien eligible to be considered for licensure and is not prohibited from licensure pursuant to paragraph 9 of subsection A of Section 6-103 of this title;
10. Effective September 1, 2005, whether the applicant has:
 - a. previously been licensed and, if so, when and by what state or country, and
 - b. held more than one license at the same time during the immediately preceding ten (10) years; and
11. Social security number.

No person shall request the Department to use the social security number of that person as the driver license number. Upon renewal or

replacement of any driver license issued after the effective date of this act, the licensee shall advise the Department or the motor license agent if the present driver license number of the licensee is the social security number of the licensee. If the driver license number is the social security number, the Department or the motor license agent shall change the driver license number to a computer-generated number.

C. In addition to the requirements of subsections A and B of this section, every applicant for a commercial driver license with a hazardous material endorsement shall submit to ~~the Department a national criminal history records search, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes, from the Oklahoma State Bureau of Investigation~~ security threat assessment performed by the Transportation Security Administration of the Department of Homeland Security as required by and pursuant to 49 C.F.R., Part 1572, which shall be used to determine whether the applicant is eligible for ~~such~~ the endorsement pursuant to federal law and regulation.

The Department of Public Safety shall notify each commercial driving school of the passage of this section, and each commercial driving school shall notify prospective students of its school of the hazardous material endorsement requirement.

D. Whenever application is received from a person previously licensed in another jurisdiction, the Department shall request a copy of the driving record from ~~such~~ the other jurisdiction and, effective September 1, 2005, from all other jurisdictions in which the person was licensed within the immediately previous ten (10) years. When received, the driving record shall become a part of the driving record of the person in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

E. Whenever the Department receives a request for a driving record from another licensing jurisdiction, the record shall be forwarded without charge.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-110, as last amended by Section 46 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 6-110. A. 1. The Department of Public Safety shall examine every applicant for an original Class A, B, C or D license and for any endorsements thereon, except as otherwise provided in Sections 6-101 through 6-309 of this title or as provided in paragraph 2 of this subsection or in subsection D of this section.

~~Such~~ The examination shall include a test of the applicant's:

- a. eyesight,
- b. ability to read and understand highway signs regulating, warning and directing traffic,
- c. knowledge of the traffic laws of this state, and
- d. ability, by actual demonstration, to exercise ordinary and reasonable control in the operation of a motor vehicle. The actual demonstration shall be conducted in the type of motor vehicle for the class of driver license being applied for.

Any licensee seeking to apply for a driver license of another class which is not covered by the licensee's current driver license shall be considered an applicant for an original license for that class.

2. The Department of Public Safety shall have the authority to waive the requirement of any part of the examination required in paragraph 1 of this subsection for those applicants who surrender a valid unexpired driver license issued by any state or country for the same type or types of vehicles, provided that the applicant's

driving record meets the standards set by the Department of Public Safety.

3. All applicants requiring a hazardous materials endorsement shall be required, for the renewal of the endorsement, to successfully complete the examination and to submit to ~~the Department~~ a ~~national criminal history records search, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes, from the Oklahoma State Bureau of Investigation~~ security threat assessment performed by the Transportation Security Administration of the Department of Homeland Security as required by and pursuant to 49 C.F.R., Part 1572, which shall be used to determine whether the applicant is eligible for renewal of the endorsement pursuant to federal law and regulation.

4. The Department of Public Safety shall give the complete examination as provided for in this section within thirty (30) days from the date the application is received, and the examination shall be given at a location within one hundred (100) miles of the residence of the applicant. The Department shall make every effort to make the examination locations and times convenient for applicants. The Department shall consider giving the examination at various school sites if the district board of education for the district in which the site is located agrees and if economically feasible and practicable.

5. The Department of Public Safety shall provide an alternative method of testing for an applicant for a Class D driver license who is eighteen (18) years of age or older and who can only understand Spanish, subject to the availability of funds. The Department may limit the number of testing sites where the examination in Spanish may be administered.

B. Any person holding a valid Oklahoma Class D license and applying for a Class A, B or C commercial license shall be required to successfully complete all examinations as required for the specified class.

C. Except as provided in subsection E of Section 6-101 of this title, any person holding a valid Oklahoma Class A, B or C commercial license shall, upon time for renewal thereof, be entitled to a Class D license without any type of testing or examination, except for any endorsements thereon as otherwise provided for by Section 6-110.1 of this title.

D. Any certified driver education instructor may administer the written portion of the Oklahoma driving examination as required for a driver education course.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 6-205.2, as last amended by Section 8, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2004, 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;
3. A nonvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;
4. A plea of guilty or nolo contendere accepted by the court;
5. The payment of any fine or court costs; or
6. 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~~ the 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, ~~or, effective September 1, 2005, if the person is the holder of a commercial driver license, committing the offense while operating any vehicle;~~

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, or, effective September 1, 2005, if the person is the holder of a commercial driver license, committing the offense while operating any 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, or, effective September 1, 2005, if the person is the holder of a commercial driver license, committing the offense while operating any vehicle. 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, effective September 1, 2005, if the person is the holder of a commercial driver license, committing the offense while operating any vehicle;

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, or, effective September 1, 2005, if the person is the

holder of a commercial driver license, committing the offense while operating any vehicle;

6. Effective September 1, 2005, operating a commercial motor vehicle while the commercial driving privilege is revoked, suspended, canceled, denied, or disqualified; or

7. Effective September 1, 2005, manslaughter, homicide, or negligent homicide occurring as a direct result of negligent operation of a commercial motor vehicle, or, if the person is the holder of a commercial driver license, committing the offense while operating any vehicle.

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 disqualifying offenses described in subsection B of this section, 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~~ the conviction has become final.

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 disqualifying offenses described in subsection B of this section after a former conviction of any of the following disqualifying offenses, when ~~such~~ the second conviction has become final.

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, or, effective September 1, 2005, if the person is the holder of a commercial driver license, committing the offense while operating any vehicle, when ~~such~~ the 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~~ a second conviction of the person for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when ~~such~~ the 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~~ a third conviction of a person for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when ~~such~~ the convictions have become final; provided, effective September 1, 2005, the one-hundred-twenty-day period shall run in addition to and shall not run concurrently with any other period disqualification imposed pursuant to this subsection. 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;
5. Following too close;
6. Effective September 1, 2005, failure to obtain a commercial driver license;

7. Effective September 1, 2005, failure to have in possession of the person a commercial driver license; or

8. Effective September 1, 2005, failure to have:

- a. the proper class of commercial driver license for the class of vehicle being operated,
- b. the proper endorsement or endorsements for the type of vehicle being operated, including but not limited to, passengers or type of cargo being transported, or
- c. both proper class and proper endorsement, as provided in subparagraphs a and b of this paragraph.

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~~ the conviction becomes final, the Department shall disqualify the driving privilege of ~~such~~ the 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~~ the conviction becomes final, the Department shall disqualify the driving privilege of ~~such~~ the 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~~ the 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 11-1115 of this title, 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. Effective September 1, 2005, the Department, upon receipt of a written notice of immediate disqualification issued by the Federal Motor Carrier Safety Administration under 49 CFR 383.52, shall

immediately disqualify the person's commercial driving privilege for the period of time specified on the written notice.

M. ~~Such~~ The 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.

N. 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, or, effective September 1, 2005, if the nonresident operator is the holder of a commercial driver license, a record of the conviction pertaining to the nonresident operator of any vehicle, the Department shall not disqualify the person and shall report ~~such~~ the conviction to the licensing jurisdiction in which the ~~nonresident's~~ license of the nonresident to operate ~~such~~ the commercial vehicle was issued.

O. Any person who is disqualified from driving under the provisions of this section shall have the right of appeal, as provided in Section 6-211 of this title.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 7-302, is amended to read as follows:

Section 7-302. The term "proof of financial responsibility" as used in this ~~article~~ title shall mean: ~~Proof~~ proof of ability to respond in damages for liability, on account of ~~accidents~~ collisions occurring subsequent to the effective date of ~~said~~ the proof, arising out of the ownership, maintenance or use of a vehicle of a type subject to registration under the laws of this state, in the amount of ~~Ten Thousand Dollars (\$10,000.00)~~ at least Twenty-five Thousand Dollars (\$25,000.00) because of bodily injury to or death of one person in any one ~~accident~~ collision, and, subject to ~~said~~ the limit for one person, in the amount of ~~Twenty Thousand Dollars (\$20,000.00)~~ at least Fifty Thousand Dollars (\$50,000.00) because of

bodily injury to or death of two or more persons in any one ~~accident~~ collision, and in the amount of ~~Ten Thousand Dollars (\$10,000.00)~~ at least Twenty-five Thousand Dollars (\$25,000.00) because of injury to or destruction of property of others in any one ~~accident~~ collision.

Wherever used in this title, the terms "proof of financial responsibility" or "proof" shall be synonymous.

SECTION 5. AMENDATORY 47 O.S. 2001, Section 7-316, is amended to read as follows:

Section 7-316. ~~(a)~~ A. Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

1. When ~~Ten Thousand Dollars (\$10,000.00)~~ at least Twenty-five Thousand Dollars (\$25,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one ~~accident~~ collision;

2. When, subject to ~~such~~ the minimum limit of ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) because of bodily injury to or death of one person, the sum of ~~Twenty Thousand Dollars (\$20,000.00)~~ at least Fifty Thousand Dollars (\$50,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one ~~accident~~ collision; or

3. When ~~Ten Thousand Dollars (\$10,000.00)~~ at least Twenty-five Thousand Dollars (\$25,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one ~~accident~~ collision.

~~(b)~~ B. Provided, however, payments made in settlements of any claims because of bodily injury, death or property damage arising from ~~such accident~~ the collision shall be credited in reduction of the amounts provided for in this section.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 7-330, is amended to read as follows:

Section 7-330. Proof of financial responsibility may be evidenced by the certificate of the Department of Public Safety that the person named therein has deposited with the Department ~~Thirty Thousand Dollars (\$30,000.00)~~ at least Seventy-five Thousand Dollars (\$75,000.00) in cash, or a certificate of deposit issued by a financial institution located in Oklahoma in an amount of at least ~~Thirty Thousand Dollars (\$30,000.00)~~ Seventy-five Thousand Dollars (\$75,000.00). The Department shall deposit any cash it receives for this purpose in a special account of the Department which shall be held in escrow until necessary to pay judgments as described in Section 7-331 of this title. The Department shall obtain a written acknowledgment from any financial institution issuing a certificate of deposit which is used for the purpose of this section, showing the certificate of deposit has been pledged to the Department for this purpose. The Department shall not accept any ~~such~~ deposit and issue a certificate therefor and the Department shall not accept ~~such~~ the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 7-700, is amended to read as follows:

Section 7-700. Any person whose driving privileges have been ~~reinstated from a suspension imposed~~ withdrawn by the Department under the provisions of Chapter 7 of ~~Title 47 of the Oklahoma Statutes~~ this title, and ~~who is~~ whose driving privileges are subsequently ~~suspended~~ withdrawn for another violation of Chapter 7 of ~~Title 47 of the Oklahoma Statutes~~ this title arising out of the same incident, shall not be required to pay to the Department ~~the processing and reinstatement~~ any additional fees required by Section 6-212 of ~~Title 47 of the Oklahoma Statutes~~ this title, as a

condition of reinstatement of driving privileges from the subsequent ~~suspension~~ withdrawal.

SECTION 8. AMENDATORY 47 O.S. 2001, Section 10-104, is amended to read as follows:

Section 10-104. A. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his correct name, address and registration number of the vehicle he is driving, and shall upon request exhibit his driver license and his security verification form, as defined in Section 7-600 of this title, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. Any driver who provides information required by this section which is intentionally inaccurate shall be subject to the provisions of Section 10-103 of this title.

B. Any driver of any vehicle involved in an accident who could be cited for any traffic offense where said accident resulted in the immediate death or great bodily injury, as defined in subsection B of Section 646 of Title 21 of the Oklahoma Statutes, of any person shall submit to drug and alcohol testing as soon as practicable after such accident occurs. The traffic offense violation shall constitute probable cause for purposes of Section 752 of this title and the procedures found in Section 752 of this title shall be followed to determine the presence of alcohol or controlled dangerous substances within the driver's blood system.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 10-108, is amended to read as follows:

Section 10-108. A. The operator of a motor vehicle which is in any manner involved in a collision upon any road, street, highway or elsewhere within this state resulting in bodily injury to or death of any person or in which it is apparent that damage to one vehicle or other property is in excess of Three Hundred Dollars (\$300.00) shall forward a written report of ~~such~~ the collision to the Department if settlement of the collision has not been made within six (6) months after the date of the accident and provided that if a settlement has been made a report of ~~such~~ the settlement must be made by the parties.

B. Notwithstanding the provisions of Section 7-202 of this title, if any party involved in a collision files a report under this section, the Department shall be responsible for providing the most up-to-date and accurate location information within the Department for either party involved at no cost, and notify all other parties involved in the collision, as specified in the report, that a report has been filed and all other parties shall then furnish the Department, within ~~ten (10)~~ twenty (20) days, ~~such~~ the information as the Department may request to determine whether the parties were in compliance with the requirements of Sections 7-601 ~~et seq.~~ through 7-609 of this title at the time of the collision. Upon a finding that an owner or driver was not in compliance with Sections 7-601 ~~et seq.~~ through 7-609 of this title, the Department shall then commence proceedings under the provisions of Sections 7-201 and 7-301 ~~et seq.~~ through 7-335 of this title.

SECTION 10. AMENDATORY 47 O.S. 2001, Section 10-115, is amended to read as follows:

Section 10-115. A. All ~~accident~~ collision reports made by persons involved in ~~accidents~~ collisions shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department or other state agencies having use for the records for ~~accident~~ collision prevention purposes, or for the

administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the Department may disclose the identity of a person involved in ~~an accident~~ a collision when ~~such~~ the identity is not otherwise known or when ~~such~~ the person denies any presence at ~~an accident~~ a collision.

B. All ~~accident~~ collision reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of ~~such~~ the reports be permitted, except, however, that ~~such~~ the reports and supplemental information may be examined by, or the Department may provide a copy to, any person named therein, ~~by~~ of the person as designated in writing by the person, or as provided in Section 40-102 of this title.

C. No reports or information mentioned in this section shall be used as evidence in any trial, civil or criminal, arising out of ~~an accident~~ a collision, except that the Department shall furnish upon demand of any party to ~~such~~ a trial, or upon demand of any court, a certificate showing that a specified ~~accident~~ collision report has or has not been made to the Department in compliance with law.

SECTION 11. AMENDATORY 47 O.S. 2001, Section 11-309, as amended by Section 22, Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2004, Section 11-309), is amended to read as follows:

Section 11-309. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following requirements in addition to all others consistent herewith shall apply.

1. A vehicle shall be driven as nearly as practicable entirely within a single lane ~~and~~.

2. A vehicle shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and

then given a signal, not less than the last one hundred (100) feet traveled by the vehicle, of his intention to change lanes.

~~2.~~ 3. Upon a roadway which is divided into three lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and ~~such~~ the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where ~~such~~ the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of ~~such~~ the allocation.

~~3.~~ 4. Upon a roadway which is divided into four or more lanes, a vehicle proceeding at less than the maximum posted speed, except when reduced speed is necessary for safe operation, shall not impede the normal flow of traffic by driving in the left lane. ~~Such~~ The vehicle shall be driven in the right-hand lane except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

~~4.~~ 5. Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

SECTION 12. AMENDATORY 47 O.S. 2001, Section 11-810, is amended to read as follows:

Section 11-810. ~~The~~ A. Except when the person is the holder of a commercial driver license and commits the offense while operating any vehicle or when the person who commits the offense is operating a commercial motor vehicle, the Department of Public Safety shall not ~~record~~ report or assess points to the driving record of any person, as maintained by the Department, for a conviction of exceeding the speed limit by at least one (1) mile per hour but not

more than ten (10) miles per hour ~~on any traffic record of a person as maintained by said Department.~~

B. Except when the person is the holder of a commercial driver license committing the offense while operating any vehicle or when the person committing the offense is operating a commercial motor vehicle, the Department of Public Safety shall not record or assess points for convictions for traffic offenses on the driving record of any person as maintained by the Department, where such conviction is for exceeding the speed limit prescribed in this title, but not exceeding the speed limit previously in force where the violation occurred.

C. Except when the person is the holder of a commercial driver license committing the offense while operating any vehicle or when the person committing the offense is operating a commercial motor vehicle, the Department of Public Safety shall not record or assess points against a person for out-of-state convictions of exceeding the speed limits of that state, provided the person did not exceed the speed limit previously in force as of January 1, 1974, in the state where the conviction occurred.

SECTION 13. AMENDATORY 47 O.S. 2001, Section 11-1302, as amended by Section 1, Chapter 270, O.S.L. 2004 (47 O.S. Supp. 2004, Section 11-1302), is amended to read as follows:

Section 11-1302. A. ~~The state through the~~ Department of ~~Highways~~ Transportation and any county or city in this state through their respective governing bodies are hereby authorized to close any highway or section thereof, within their respective jurisdiction, to traffic while ~~such~~ the highway is under repair, maintenance or construction and, in exercising ~~such~~ the authority, shall erect or cause to be erected ~~control~~ traffic-control devices and barricades to warn and notify the public that ~~said~~ the highway has been closed to traffic.

B. When any highway has been closed to traffic under the provisions of subsection A of this section and traffic-control devices or barricades have been erected, it shall be unlawful for any person to drive any vehicle through, under, over, or around ~~such~~ the traffic-control devices or barricades, or otherwise to enter ~~said the~~ closed area; ~~except, that the.~~ The provisions of this ~~paragraph~~ subsection shall not apply to persons while engaged in the construction, maintenance and repair of ~~said the~~ highway or to persons entering therein for the protection of lives or property; provided, that persons having their places of residence or places of business within ~~such the~~ closed area may travel, when possible to do so, through ~~such the~~ area at their own risk.

C. Whenever construction, repair and maintenance of any highway is being performed under traffic, the governing body having jurisdiction over ~~said the~~ highway shall erect, or cause to be erected, traffic-control devices to warn and guide the public, ~~and every.~~ Each person using ~~such the~~ highway shall obey all signs, signals, markings, flagmen or other traffic-control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area. As used in this subsection, "construction or maintenance area" means any area upon or around any highway that is visibly marked as an area where construction, repair, and maintenance is temporarily occurring. The construction or maintenance area also includes the lanes of highway leading up to the area upon which an activity described in this section is being performed, beginning at the point where ~~appropriate signs directing motor vehicles~~ properly posted traffic-control devices start to warn and guide the public into and through the construction or maintenance including, but not limited to, instructions to merge from one lane into another lane are posted, to reduce speed, or to follow directions of flagmen.

D. ~~A~~ The initial traffic-control device that is used to warn and guide the public using the highway to merge, shall be located no greater than one (1) mile nor less than one thousand five hundred (1,500) feet in advance of the highway construction or maintenance area. Whenever any traffic-control device requires traffic to merge due to the closure of a section or lane of highway, the merge shall be completed ~~within one thousand five hundred (1,500) feet of:~~

1. As soon as practicable after passing the traffic-control device; and

2. Without passing any other traffic proceeding in the same direction.

E. No person shall remove, change, modify, deface or alter any traffic-control device or barricade which has been erected on any highway under the provisions of this article.

F. Nothing in this article shall relieve the state or any of its subdivisions or their contractors, agents, servants or employees from liability for failure to perform any of the duties imposed herein.

G. Any person who violates any provision of this article shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail not to exceed thirty (30) days, or both such fine and imprisonment, and shall be liable for any damage to property, or injury to or death to persons caused by ~~such~~ the violations.

SECTION 14. AMENDATORY 47 O.S. 2001, Section 40-102, as last amended by Section 56 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 40-102. A. 1. Every law enforcement officer who, in the regular course of duty, investigates or receives a report of a traffic collision resulting in injury to or death of a person or

total property damage to an apparent extent of Five Hundred Dollars (\$500.00) or more shall prepare a written report of the collision on the standard collision report form supplied by the Department of Public Safety. ~~Such~~ The reports shall be forwarded ~~forthwith~~ within thirty (30) days of the collision or, if the collision results in the death of any person, then within twenty (20) days of the death of the person, whichever time period is lesser, by the law enforcement agency preparing the report to the Department of Public Safety.

2. Reports of collisions shall be kept confidential for a period of sixty (60) days after the date of the collision; provided, ~~such the~~ reports shall be made available ~~immediately after filing~~ as soon as practicable upon request to any:

- a. party involved in the collision,
- b. legal representatives of a party involved in the collision,
- c. state, county or city law enforcement agency,
- d. the Department of Transportation or any county or city transportation or road and highway maintenance agency,
- e. licensed insurance agents of a party involved in the collision,
- f. insurer of a party involved in the collision,
- g. insurer to which a party has applied for coverage,
- h. person under contract with an insurer, as described in subparagraph e, f or g of this paragraph, to provide claims or underwriting information,
- i. prosecutorial authority,
- j. newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes,
- k. radio or television broadcaster,
- l. licensed private investigators employed by a party involved in the collision, or

m. provider of health services to a party involved in the collision.

3. Any person who knowingly violates this section and obtains or provides information made confidential by this section is guilty of a misdemeanor and shall be fined no more than Two Thousand Five Hundred Dollars (\$2,500.00). Second and subsequent offenses shall carry a penalty of imprisonment in the county jail for not more than thirty (30) days.

B. 1. No public employee or officer shall allow a person to examine or reproduce a collision report or any related investigation report if examination or reproduction of the report is sought for the purpose of making a commercial solicitation. Any person requesting a collision report may be required to state, in writing, under penalty of perjury, that the report will not be examined, reproduced or otherwise used for commercial solicitation purposes. It shall be unlawful and constitute a misdemeanor for any person to obtain or use information from a collision report or a copy thereof for the purpose of making a commercial solicitation.

2. As used in this subsection:

a. "commercial solicitation" means any attempt to use, or offer for use, information contained in a collision report to solicit any person named in the report, or a relative of ~~such~~ the person, or to solicit a professional, business, or commercial relationship.

"Commercial solicitation" does not include publication in a newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast of information by news media for news purposes, or obtaining information for the purpose of verification or settlement of claims by insurance companies, and

b. "collision report" means any report regarding a motor vehicle collision which has been submitted by an

individual or investigating officer on a form prescribed or used by the Department of Public Safety or local police department.

3. Publication in a newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial solicitation purposes. Because publication by a newspaper, broadcast by news media for news purposes, or obtaining information for verification or settlement of claims by insurance companies is not a resale or use of data for commercial purposes, an affidavit shall not be required as a condition for allowing a member of a newspaper or broadcast news media, or allowing an agent, or business serving as an agent, to insurance companies, to examine or obtain a copy of a collision report. Any agent or business obtaining information for verification or settlement of claims involving persons named in a report shall secure an affidavit annually from each client stating the information provided to the client shall not be used for commercial solicitation purposes under penalty of law.

4. The Department and local police departments shall include the following or a similar notice upon any copy of a collision report furnished to others: "Warning - State Law. Use of contents for commercial solicitation is unlawful."

C. As used in this section:

1. "Newspaper" means a legal newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes, provided that the primary purpose of the newspaper is not the publication of personally identifying information concerning parties involved in the traffic collision; and

2. "Provider of health services" means any person that provides health care services to the injured person under a license, certification or registration issued pursuant to Title 59 of the

Oklahoma Statutes, or any hospital or related institution that offers or provides health care services under a license issued pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma Statutes.

SECTION 15. AMENDATORY 47 O.S. 2001, Section 752, as last amended by Section 21, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 752), is amended to read as follows:

Section 752. A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, certified by the State Board of Medical Licensure and Supervision, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or other qualified person authorized by the Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer may withdraw blood for purpose of having a determination made of its concentration of alcohol or other intoxicating substance. Only qualified persons authorized by the Board may collect breath, saliva or urine, or administer tests of breath under the provisions of this title.

B. If the person authorized to withdraw blood as specified in subsection A of this section is presented with a written statement:

1. Authorizing blood withdrawal signed by the person whose blood is to be withdrawn;

2. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood;

3. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has been placed under arrest and that the officer has probable cause to believe that the person, while intoxicated, has operated a motor vehicle in such manner as to have caused the death or serious physical injury of another person, or

the person has been involved in a traffic accident and has been removed from the scene of the accident that resulted in the death or ~~serious~~ great bodily injury, as defined in subsection B of Section 646 of Title 21 of the Oklahoma Statutes, of any person to a hospital or other health care facility outside the State of Oklahoma before the law enforcement officer was able to effect an arrest for such offense; or

4. In the form of an order from a district court that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

C. No person specified in subsection A of this section, no employer of such person, and no hospital or other health care facility where blood is withdrawn shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer by the provisions of Section 751 or 753 of this title, or when acting in reliance upon a signed statement or court order as provided in this section, if the act is performed in a reasonable manner according to generally accepted clinical practice. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of Section 751 or 753 of this title or when acting pursuant to a court order.

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board, or tested by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title, to determine the alcohol concentration thereof, or the presence and concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a motor vehicle safely.

E. When blood is withdrawn or saliva or urine is collected for testing of its alcohol or other intoxicating substance concentration, at the request of a law enforcement officer, a sufficient quantity of the same specimen shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess blood, saliva or urine specimen shall be retained by a laboratory approved by the Board, in accordance with the rules and regulations of the Board, or by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title, for sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional blood, saliva or urine specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

F. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in accordance with the rules and regulations of the Board, to enable the tested person, at his or her own option and expense, to have an

independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

H. Tests of blood or breath for the purpose of determining the alcohol concentration thereof, and tests of blood, saliva or urine for the purpose of determining the presence and concentration of any other intoxicating substance therein, under the provisions of this title, whether administered by or at the direction of a law

enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this title, shall have been administered or performed in accordance with the rules and regulations of the Board, or performed by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title.

I. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, breath, saliva or urine which is appropriate as determined by the Board for the purpose of determining its alcohol concentration or of any other intoxicating substance therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of alcohol, or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

J. Any agency or laboratory certified by the Board or any agency or laboratory that is exempt from the Board rules pursuant to Section 759 of this title, which analyses breath, blood, or urine shall make available a written report of the results of the test

administered by or at the direction of the law enforcement officer to:

1. The tested person, or his or her attorney;
2. The Commissioner of Public Safety; and
3. The Fatality Analysis Reporting System (FARS) analyst of the state, upon request.

The results of the tests provided for in this title shall be admissible in civil actions.

SECTION 16. AMENDATORY 47 O.S. 2001, Section 754, as amended by Section 22, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2004, Section 754), is amended to read as follows:

Section 754. A. Any arrested person who is under twenty-one (21) years of age and has any measurable quantity of alcohol in the person's blood or breath, or any person twenty-one (21) years of age or older whose alcohol concentration is eight-hundredths (0.08) or more as shown by a breath test administered according to the provisions of this title, or any arrested person who has refused to submit to a breath or blood test, shall immediately surrender his or her driver license, permit or other evidence of driving privilege to the arresting law enforcement officer. The officer shall seize any driver license, permit, or other evidence of driving privilege surrendered by or found on the arrested person during a search.

B. If the evidence of driving privilege surrendered to or seized by the officer has not expired and otherwise appears valid, the officer shall issue to the arrested person a dated receipt for that driver license, permit, or other evidence of driving privilege on a form prescribed by the Department of Public Safety. This receipt shall be recognized as a driver license and shall authorize the arrested person to operate a motor vehicle for a period not to exceed thirty (30) days. The receipt form shall contain and constitute a notice of revocation of driving privilege by the Department effective in thirty (30) days. The evidence of driving

privilege and a copy of the receipt form issued to the arrested person shall be attached to the sworn report of the officer and shall be submitted by mail or in person to the Department within seventy-two (72) hours of the issuance of the receipt. The failure of the officer to timely file this report shall not affect the authority of the Department to revoke the driving privilege of the arrested person.

C. Upon receipt of a written blood or breath test report reflecting that the arrested person, if under twenty-one (21) years of age, had any measurable quantity of alcohol in the person's blood or breath, or, if the arrested person is twenty-one (21) years of age or older, a blood or breath alcohol concentration of eight-hundredths (0.08) or more, accompanied by a sworn report from a law enforcement officer that the officer had reasonable grounds to believe the arrested person had been operating or was in actual physical control of a motor vehicle while under the influence of alcohol as prohibited by law, the Department shall revoke or deny the driving privilege of the arrested person for a period as provided by Section 6-205.1 of this title. Revocation or denial of the driving privilege of the arrested person shall become effective thirty (30) days after the arrested person is given written notice thereof by the officer as provided in this section or by the Department as provided in Section 2-116 of this title.

D. Upon the written request of a person whose driving privilege has been revoked or denied by notice given in accordance with this section or Section 2-116 of this title, the Department shall grant the person an opportunity to be heard if the request is received by the Department within fifteen (15) days after the notice ~~of the revocation is given in accordance with this section or Section 2-116 of this title~~. The sworn report of the officer, together with the results of any test or tests, shall be deemed true, absent any facial deficiency, should the requesting person fail to appear at

the scheduled hearing. A timely request shall stay the order of the Department until the disposition of the hearing unless the person is under cancellation, denial, suspension or revocation for some other reason. The Department may issue a temporary driving permit pending disposition of the hearing, if the person is otherwise eligible. If the hearing request is not timely filed, the revocation or denial shall be sustained.

E. 1. At any hearing held relevant to this section, a report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof, which has been made available to the person by the Commissioner or an authorized representative at least five (5) days prior to the hearing, with reference to all or part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If ~~such~~ the report is deemed relevant by either party, the court shall admit ~~such~~ the report without the testimony of the person making the report, unless the court, pursuant to this subsection, orders ~~such~~ the person to appear.

2. When any alleged controlled dangerous substance has been submitted to the laboratory of the OSBI for analysis, and ~~such~~ the analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of ~~such~~ the substance shall be released to any other person or laboratory absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

3. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in the hearing when it appears there is a substantial likelihood that material evidence not contained in ~~said~~ the report may be produced by the testimony of any person having prepared a report. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.

4. If within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this section requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the person making the report, the motion is heard, and, if sustained, the testimony ordered can be given.

F. The hearing before the Commissioner of Public Safety or a designated hearing officer shall be conducted in the county of arrest or may be conducted by telephone conference call. The hearing may be recorded and its scope shall cover the issues of whether the officer had reasonable grounds to believe the person had been operating or was in actual physical control of a vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance as prohibited by law, and whether the person was placed under arrest.

1. If the revocation or denial is based upon a breath or blood test result and a sworn report from a law enforcement officer, the scope of the hearing shall also cover the issues as to whether:

- a. if timely requested by the person, the person was not denied a breath or blood test,

- b. the specimen was obtained from the person within two (2) hours of the arrest of the person,
- c. the person, if under twenty-one (21) years of age, was advised that driving privileges would be revoked or denied if the test result reflected the presence of any measurable quantity of alcohol,
- d. ~~the person was informed that a separate testing of the sample taken by the intoxilyzer can be analyzed by the person at his or her own expense within sixty (60) days of the test date,~~
- ~~e.~~ e. the person, if twenty-one (21) years of age or older, was advised that driving privileges would be revoked or denied if the test result reflected an alcohol concentration of eight-hundredths (0.08) or more, and
- ~~f.~~ e. the test result in fact reflects ~~such~~ the alcohol concentration.

2. If the revocation or denial is based upon the refusal of the person to submit to a breath or blood test, reflected in a sworn report by a law enforcement officer, the scope of the hearing shall also include whether:

- a. the person refused to submit to the test or tests, and
- b. the person was informed that driving privileges would be revoked or denied if the person refused to submit to the test or tests.

G. After the hearing, the Commissioner of Public Safety or a designated hearing officer shall order the revocation or denial either rescinded or sustained.

SECTION 17. AMENDATORY 47 O.S. 2001, Section 754.1, as amended by Section 60 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 754.1 A. The Department of Public Safety, prior to an administrative hearing for a revocation or denial arising under the provisions of Sections 751 through 754 of this title or under the provisions of Section 6-205.1 of this title, may modify the revocation or denial when it is determined by the Department that no other adequate means of transportation exists for the person whose driving privilege has been revoked or denied; provided, any modification under this paragraph shall apply to Class D motor vehicles only.

B. As a prerequisite and condition of any modification, the person shall be required to have installed an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the person's own expense, upon every motor vehicle operated by ~~such~~ the person, provided, the. The Department shall not require, as a condition of modification, the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the person to the Department; provided, a request shall not be accepted by the Department under the following circumstances:

1. When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle; or

2. When the person is employed by ~~relatives~~ a relative who either is within the first degree of consanguinity or who resides in the same household, without the employer's written permission to install the ignition interlock device on any vehicle to be operated by the person during the course of employment. The permission to install the ignition interlock device shall be in writing on the official letterhead of the employer.

The person shall comply with all provisions of law and rule regarding ignition interlock devices.

C. Upon the issuance of a modification order pursuant to this section or Section 755 of this title, the person shall pay a modification fee of One Hundred Fifty Dollars (\$150.00) to the Department. For each modification fee collected pursuant to the provisions of this section, One Hundred Dollars (\$100.00) shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury and Fifty Dollars (\$50.00) shall be remitted to the State Treasurer to be credited to the Department of Public Safety Revolving Fund. All monies accruing to the credit of the Department of Public Safety Revolving Fund from modification fees shall be budgeted and expended solely for the purpose of administering the provisions of this section and Section 755 of this title.

D. The Board of Tests for Alcohol and Drug Influence shall promulgate such rules as are necessary to implement and administer the provisions of this subsection relating to ignition interlock devices and the providers of such devices.

SECTION 18. AMENDATORY Section 1 of Enrolled House Bill No. 1304 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 1. A. Whenever the records of the Department of Public Safety reflect:

1. A second or subsequent conviction of a person for driving under the influence of alcohol or the combination of alcohol and any other intoxicating substance within five (5) years of a previous conviction for the same offense; or

2. A person is classified as an excessive user of alcohol or of a combination of alcohol and any other intoxicating substance, and inimical to public safety, in accordance with rules promulgated by the Department,

the person shall, upon request for reinstatement of driving privileges from revocation or suspension based upon the conviction or the status as an excessive user, provide proof of installation of an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the person's own expense, upon every motor vehicle operated by ~~such~~ the person; ~~provided, the.~~

B. ~~The~~ Department shall ~~not~~ require, as a condition of reinstatement, the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the person to the Department; provided, a request shall not be accepted by the Department under the following circumstances:

1. When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle; or

2. When the person is employed by ~~relatives~~ a relative who is within the first degree of consanguinity or who ~~reside~~ resides in the same household, without the employer's written permission, on official letterhead of the employer, to install the ignition interlock device on any vehicle to be operated by the person during the course of employment.

The person shall comply with all provisions of law and rule regarding ignition interlock devices.

~~B.~~ C. 1. The requirements of subsection A of this section shall be a prerequisite and condition for reinstatement of driving privileges, in addition to other conditions for driving privilege reinstatement provided by law or by rule of the Department. The Department shall issue a restricted driver license to the person, upon payment of a restricted driver license fee of Fifty Dollars

(\$50.00) and all other appropriate fees by the person. The restricted driver license and the driving record of the person shall indicate by an appropriate restriction that the person is only authorized to operate a vehicle upon which an ignition interlock is installed. If the person is operating a motor vehicle owned or leased by an employer who has not given permission for an ignition interlock device to be installed, the employer shall provide the person with a letter, on official letterhead of the employer, which the person shall carry in his or her immediate possession at all times when operating a motor vehicle and shall display for examination and inspection upon demand of a peace officer.

2. The restricted driver license fee authorized by this section shall be remitted to the State Treasurer to be credited to the Department of Public Safety Revolving Fund. All monies accruing to the credit of the Department of Public Safety Revolving Fund from restricted driver license fees shall be budgeted and expended solely for the purpose of administering the provisions of this section.

3. The installation of an ignition interlock device, as required by this subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

~~C.~~ D. 1. Installation of an ignition interlock device pursuant to paragraph 1 of subsection A of this section shall be for a period of six (6) months which shall run concurrently with a court order, if any, for installation of an ignition interlock device pursuant to the same conviction.

2. Installation of an ignition interlock device pursuant to paragraph 2 of subsection A of this section shall be for a period of twelve (12) months which shall run concurrently with a court order, if any, for installation of an ignition interlock device pursuant to a conviction which caused the person to be classified as an excessive user of alcohol or of a combination of alcohol and any other intoxicating substance.

~~D.~~ E. The person shall pay the monthly maintenance fee for each ignition interlock device installed pursuant to this section. The person shall comply with all provisions of law regarding ignition interlock devices.

~~E.~~ F. The ignition interlock device provider shall make available to the Department regular reports of violations, if any, for each ignition interlock device installed pursuant to this section.

~~F.~~ G. Pursuant to Section 6-113 of Title 47 of the Oklahoma Statutes, the Department may revoke or suspend the driving privileges of the person for reports from the provider which indicate attempts by the person to operate a motor vehicle when the person is under the influence of alcohol.

~~G.~~ H. The Department shall promulgate rules necessary to implement and administer this section.

SECTION 19. REPEALER 47 O.S. 2001, Section 1-136.1, is hereby repealed.

SECTION 20. The provisions of Sections 12, 17 and 18 of this act shall become effective September 1, 2005.

SECTION 21. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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