

SB 1724

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE STATE SENATE
Thursday, February 21, 2008

Senate Bill No. 1724
As Amended

SENATE BILL NO. 1724 - By: BALLENGER of the Senate and ROUSSELOT of the House.

[public safety - personal recognizance - Driver Improvement Program - codification - effective date - emergency]

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 1115.1, as amended by Section 3, Chapter 204, O.S.L. 2006 (22 O.S. Supp. 2007, Section 1115.1), is amended to read as follows:

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

- 1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States, which is a participant in the Nonresident Violator Compact or any party jurisdiction of the Nonresident Violator Compact;

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

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

7 4. The violation does not constitute:

8 a. a felony, or

9 b. negligent homicide, or

10 c. driving or being in actual physical control of a motor
11 vehicle while impaired or under the influence of
12 alcohol or other intoxicating substances, unless the
13 person is unconscious or injured and requires
14 immediate medical treatment as determined by a
15 treating physician, or

16 d. eluding or attempting to elude a law enforcement
17 officer, or

18 e. operating a motor vehicle without having been issued a
19 valid driver license, or while the driving privilege
20 and driver license is under suspension, revocation,
21 denial or cancellation, or

22 f. an arrest based upon an outstanding warrant, or

1 g. a traffic violation coupled with any offense stated in
2 subparagraphs a through f of this paragraph.
3 Provided, however, for any violation enumerated under this
4 paragraph, if the arresting officer does not place the person under
5 custodial arrest and deliver the person for appearance before an
6 appropriate magistrate as prescribed in subsection B of Section
7 1115.2 of this title, either at such officer's discretion and for
8 good cause, or because, in such officer's judgment, extraordinary
9 circumstances exist which are beyond the control of the officer,
10 such person shall be considered released upon personal recognizance
11 pursuant to the provisions of this section, and all provisions
12 regarding personal recognizance shall apply to such person.

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

- 16 1. Designate the traffic charge;
- 17 2. Record information from the arrested person's driver license
18 on the citation form, including the name, address, date of birth,
19 personal description, type of driver license, driver license number,
20 issuing state, and expiration date;
- 21 3. Record the motor vehicle make, model and tag information;

1 4. Record the date and time on the citation on which, or before
2 which, the arrested person promises to contact, pay, or appear at
3 the court, as applicable to the court; and

4 5. Permit the arrested person to sign a written promise to
5 contact, pay, or appear at the court, as provided for in the
6 citation.

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

17 C. The court, or the court clerk as directed by the court, may
18 continue or reschedule the date and time of arraignment at its own
19 discretion or upon request of the arrested person or the attorney
20 for that person. If the arraignment is continued or rescheduled,
21 the arrested person shall remain on personal recognizance and
22 written promise to appear until such arraignment, in the same manner
23 and with the same consequences as if the continued or rescheduled

1 arraignment was entered on the citation by the arresting officer and
2 signed by the defendant. An arraignment may be continued or
3 rescheduled more than one time. Provided, however, the court shall
4 require an arraignment to be had within a reasonable time. It shall
5 remain the duty of the defendant to appear for arraignment unless
6 the citation is satisfied as provided for in subsection D of this
7 section.

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

1 1. As prescribed in Section 1115.3 of this title as bail for
2 the violation; or

3 2. In case of a municipal violation, as prescribed by municipal
4 ordinance for the violation charged; or

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

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

15 a. the defendant was issued a traffic citation and
16 released upon personal recognizance after signing a
17 written promise to appear for arraignment as provided
18 for in the citation,

19 b. the defendant has failed to appear for arraignment
20 without good cause shown,

21 c. the defendant has not posted bail, paid a fine, or
22 made any other arrangement with the court to satisfy
23 the citation, and

1 d. the citation has not been satisfied as provided by
2 law.

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

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

14 a. the defendant was arraigned, posted bail, paid a fine,
15 was jailed, or otherwise settled the case, or

16 b. the defendant was not released upon personal
17 recognizance upon a signed written promise to appear
18 as provided for in this section or if released, was
19 not permitted to remain on such personal recognizance
20 for arraignment, or

21 c. the violation relates to parking or standing, or

1 d. a period of one hundred twenty (120) calendar days or
2 more has elapsed from the date the citation was issued
3 by the arresting officer.

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

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

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

9 SECTION 2. AMENDATORY 22 O.S. 2001, Section 1115.2, as
10 amended by Section 4, Chapter 204, O.S.L. 2006 (22 O.S. Supp. 2007,
11 Section 1115.2), is amended to read as follows:

12 Section 1115.2 A. If a person arrested for a traffic violation
13 is released upon personal recognizance as provided for in Section
14 1115.1 of this title, but subsequently posts bail and thereafter
15 fails to timely appear as provided for by law, the court may issue a
16 warrant for the person's arrest and the case shall be processed as
17 follows:

18 1. If for a state traffic violation, as provided for in Section
19 1108 of this title; or

20 2. If for a violation filed in a municipal court not of record,
21 as provided for in Section 27-118 of Title 11 of the Oklahoma
22 Statutes; or

1 3. If for a violation filed in a municipal court of record, as
2 provided for in Section 28-127 of Title 11 of the Oklahoma Statutes.

3 B. If the defendant is not eligible for release upon personal
4 recognizance as provided for in Section 1115.1 of this title, or if
5 eligible but refuses to sign a written promise to appear, the
6 officer shall deliver the person to an appropriate magistrate for
7 arraignment and the magistrate shall proceed as otherwise provided
8 for by law. If no magistrate is available, the defendant shall be
9 placed:

10 1. Placed in the custody of the appropriate municipal or county
11 jailor or custodian, to be held until a magistrate is available or
12 bail is posted as provided for in Section 1115.3 of this title;

13 2. Released upon personal recognizance by the arresting officer
14 as provided for in subsection A of Section 1115.1 of this title; or

15 3. Processed as otherwise provided for by law or ordinance.

16 C. 1. Notwithstanding any other provision of law, a juvenile
17 may be held in custody pursuant to the provisions of this section,
18 but shall be incarcerated separately from any adult offender.

19 Provided however, the arresting officer shall not be required to:

20 a. place a juvenile into custody as provided for in this
21 section, or

22 b. place any other traffic offender into custody:

1 decision to release or not to release such person from
2 custody pursuant to the provisions of this subsection.

3 SECTION 3. AMENDATORY 22 O.S. 2001, Section 1115.5, as
4 amended by Section 1, Chapter 392, O.S.L. 2003 (22 O.S. Supp. 2007,
5 Section 1115.5), is amended to read as follows:

6 Section 1115.5 A. 1. Following receipt of notification and a
7 request for driving privilege suspension from a municipal or
8 district court clerk as provided for in Section 1115.1 of this
9 title, the Department of Public Safety shall:

10 a. suspend the person's privilege to operate a motor
11 vehicle in this state; or

12 b. forward a request for suspension of the person's
13 driving privilege ~~in~~ to the state which issued the
14 license as provided by the Nonresident Violator
15 Compact.

16 A person whose license is subject to suspension in this state
17 pursuant to this section may avoid the effective date of the
18 suspension or, if suspended, shall be eligible for reinstatement, if
19 otherwise eligible, upon meeting the requirements of subsection C of
20 this section.

21 2. The Department of Public Safety may decline to initiate such
22 suspension action in this state if the request is discovered to be
23 improper or questionable.

1 3. The Department shall not be required to issue more than one
2 suspension of a person's driving privilege in the event multiple
3 requests for suspensions are received from a court clerk based upon
4 the failure of the person to appear at a particular time and date on
5 multiple charges which arose from the same incident.

6 B. Following receipt of a request from another jurisdiction for
7 the suspension of the driving privilege of an Oklahoma resident as
8 provided by the Nonresident Violator Compact, the Department of
9 Public Safety, if the request appears to be valid, shall initiate
10 suspension of the person's privilege to operate a motor vehicle in
11 this state. If suspended, such suspension shall remain in effect
12 until the person meets the requirements of subsection C of this
13 section.

14 C. 1. A person whose license is subject to suspension in this
15 state pursuant to the provisions of this section may avoid the
16 effective date of suspension, or if suspended in this state, shall
17 be eligible for reinstatement, if otherwise eligible, upon:

- 18 a. making application therefore to the Department of
19 Public Safety, and
- 20 b. showing proof from the court or court clerk that the
21 person has entered an appearance in the case which was
22 the basis for the suspension action and was released

1 by the court as provided for by the Nonresident
2 Violator Compact or consistent provisions, and
3 c. submitting with the application the fees, as provided
4 for in Section 6-212 of Title 47 of the Oklahoma
5 Statutes. The fees shall be remitted to the State
6 Treasurer to be credited to the General Revenue Fund
7 of the State Treasury†.

8 2. Upon reinstatement, the Department of Public Safety may
9 remove any record of the suspension and reinstatement as provided
10 for in this section from the individual licensee's file and maintain
11 an internal record of the suspension and reinstatement for fiscal
12 and other purposes.

13 D. Any person whose driving privilege is suspended or subject
14 to suspension in this state pursuant to the provisions of this
15 section, at any time, may informally present specific reasons or
16 documentation to the Department of Public Safety to show that such
17 suspension may be unwarranted. The Department of Public Safety may
18 stay the suspension or suspension action pending receipt of further
19 information or documentation from the person or from the
20 jurisdiction requesting such suspension, or pending review of the
21 record, or other inquiry. If the Department of Public Safety
22 determines the suspension is unwarranted, the suspension action
23 shall be withdrawn or vacated without the requirement of a

1 processing fee and a reinstatement fee and the Department of Public
2 Safety shall accordingly notify the jurisdiction which requested the
3 suspension. If, however, the request for suspension appears valid,
4 the Department of Public Safety shall proceed with suspension of the
5 person's driving privilege and the person shall have the right to
6 appeal as provided for by Section 6-211 of Title 47 of the Oklahoma
7 Statutes. Provided, however, the court shall not consider
8 modification, but shall either sustain or vacate the Department of
9 Public Safety's order of suspension based upon the records on file
10 with the Department of Public Safety, the law and other relevant
11 evidence.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 537.3 of Title 37, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Except as provided for in subsection C of this section, it
16 shall be unlawful for any person under twenty-one (21) years of age
17 to consume or to possess with the intent to consume any alcohol or
18 alcoholic beverage, as defined in Section 506 of Title 37 of the
19 Oklahoma Statutes. It shall be unlawful for any person under
20 twenty-one (21) years of age to purchase or attempt to purchase any
21 alcohol or alcoholic beverage, as defined in Section 506 of Title 37
22 of the Oklahoma Statutes, except under the supervision of law
23 enforcement officers.

1 B. Any person convicted of violating the provisions of this
2 section shall be guilty of a misdemeanor and punished:

3 1. For a first offense, by a fine not to exceed Three Hundred
4 Dollars (\$300.00) or ordered to perform community service not to
5 exceed thirty (30) hours, or by both such fine and community
6 service;

7 2. For a second offense, by a fine not to exceed Six Hundred
8 Dollars (\$600.00) or ordered to perform community service not to
9 exceed sixty (60) hours, or by both such fine and community service;
10 or

11 3. For a third or subsequent offense, by a fine not to exceed
12 Nine Hundred Dollars (\$900.00) or ordered to perform community
13 service not to exceed ninety (90) hours, or by both such fine and
14 community service.

15 Additionally, if the person has an Oklahoma driver license issued by
16 the Department of Public Safety, that license shall be revoked for
17 the period of time provided in Section 6-107.1 of Title 47 of the
18 Oklahoma Statutes. If the person does not have an Oklahoma driver
19 license, the person shall be ineligible to obtain an Oklahoma driver
20 license for the period of time provided in Section 6-107.1 of Title
21 47 of the Oklahoma Statutes.

22 C. The provisions of this section shall not apply when:

1 1. The person is under the direct supervision of his or her
2 parent or guardian; or

3 2. When the person consumes, possesses, or has physical control
4 of an alcoholic beverage as part of a bona fide religious rite,
5 ritual, or ceremony.

6 Provided, in no instance shall this subsection be interpreted or
7 construed to allow the person to consume any alcohol or alcoholic
8 beverage in any place licensed to dispense alcohol or alcoholic
9 beverages as provided in Title 37 of the Oklahoma Statutes.

10 D. In addition to any penalty or condition imposed pursuant to
11 the provisions of this section, any person convicted of a violation
12 of this section shall be subject to an assessment of the person's
13 degree of alcohol abuse, in the same manner as prescribed in
14 subsection G of Section 11-902 or Title 47 of the Oklahoma Statutes,
15 which may result in treatment as deemed appropriate by the court.

16 SECTION 5. AMENDATORY 47 O.S. 2001, Section 6-107.1, as
17 amended by Section 12, Chapter 61, O.S.L. 2006 (47 O.S. Supp. 2007,
18 Section 6-107.1), is amended to read as follows:

19 Section 6-107.1 A. When any district court, municipal court of
20 record or any municipal court in a city or town in which the judge
21 is an attorney licensed to practice law in this state has determined
22 that a person under the age of eighteen (18) years has committed any
23 offense described in subsection C of this section, or that a person

1 eighteen (18), nineteen (19), or twenty (20) years of age has
2 committed an offense described in Section 11-906.4 of this title,
3 the court shall notify the Department of Public Safety on a form
4 prescribed by the Department as provided in Section 6-107.2 of this
5 title.

6 B. The notice shall include the name, date of birth, physical
7 description and, if known, the driver license number of the person.
8 The notice shall contain an order to the Department to cancel or
9 deny driving privileges for a specified period of time, except as
10 otherwise provided by law, as follows:

11 1. For a period of six (6) months for a first offense, from the
12 date of conviction for the offense ~~or from the date the person~~
13 ~~reaches sixteen (16) years of age, whichever period of time is~~
14 ~~longer;~~

15 2. For a period of one (1) year for a second offense, from the
16 date of conviction for the offense ~~or from the date the person~~
17 ~~reaches sixteen (16) years of age, whichever period of time is~~
18 ~~longer;~~

19 3. For a period of two (2) years for a third or subsequent
20 offense, from the date of conviction for the offense ~~or from the~~
21 ~~date the person reaches sixteen (16) years of age, whichever period~~
22 ~~of time is longer; or~~

1 4. In the discretion of the court, until the person attains
2 twenty-one (21) years of age, if that period of time would be longer
3 than the period of time provided in paragraph 1, 2 or 3 of this
4 subsection.

5 Provided, however, if the person is less than fifteen and one-half
6 (15 1/2) years of age at the time of the conviction, the Department
7 shall extend the period of cancellation or denial to include the
8 period from the date of conviction to the date the person attains
9 fifteen and one-half (15 1/2) years of age.

10 The court shall send a copy of the notice to the person first
11 class, postage prepaid.

12 C. In addition to the administrative revocation of driving
13 privileges pursuant to Section 754 of this title, and the mandatory
14 revocation of driving privileges pursuant to Section 6-205.1 of this
15 title, this section applies to any crime, violation, infraction,
16 traffic offense or other offense involving or relating to the
17 possession, use, sale, purchase, transportation, distribution,
18 manufacture, or consumption of beer, alcohol, or any beverage
19 containing alcohol and to any crime, violation, infraction, traffic
20 offense or other offense involving or relating to the possession,
21 use, sale, purchase, transportation, distribution, manufacture,
22 trafficking, cultivation, consumption, ingestion, inhalation,
23 injection, or absorption of any controlled dangerous substance as

1 defined by paragraph 8 of Section 2-101 of Title 63 of the Oklahoma
2 Statutes or any substance which is capable of being ingested,
3 inhaled, injected, or absorbed into the human body and is capable of
4 adversely affecting the central nervous system, vision, hearing, or
5 other sensory or motor functions.

6 SECTION 6. AMENDATORY 47 O.S. 2001, Section 6-205.1, as
7 last amended by Section 11, Chapter 326, O.S.L. 2007 (47 O.S. Supp.
8 2007, Section 6-205.1), is amended to read as follows:

9 Section 6-205.1 A. The driving privilege of a person who is
10 convicted of any offense as provided in paragraph 2 or 6 of
11 subsection A of Section 6-205 of this title, or a person who has
12 refused to submit to a test or tests as provided in Section 753 of
13 this title, or a person whose alcohol concentration is subject to
14 the provisions of Section 754 of this title, shall be revoked or
15 denied by the Department of Public Safety for the following period,
16 as applicable:

17 1. The first license revocation pursuant to paragraph 2 of
18 subsection A of Section 6-205 of this title or to Section 753 or 754
19 of this title shall be for one hundred eighty (180) days, which may
20 be modified; provided, any modification under this paragraph shall
21 apply to Class D motor vehicles only;

22 2. A revocation pursuant to paragraph 2 of subsection A of
23 Section 6-205 of this title, or to Section 753 or 754 of this title

1 shall be for a period of one (1) year if within ten (10) years
2 preceding the date of arrest relating thereto, as shown by the
3 records of the Department:

4 a. a prior revocation commenced pursuant to paragraph 2
5 or 6 of subsection A of Section 6-205 of this title,
6 or to Section 753 or 754 of this title. Such period
7 shall not be modified, or

8 b. the record of the person reflects a prior conviction
9 in another jurisdiction which did not result in a
10 revocation of Oklahoma driving privileges, for a
11 violation substantially similar to paragraph 2 of
12 subsection A of Section 6-205 of this title, and the
13 person was not a resident or a licensee of Oklahoma at
14 the time of the offense resulting in the conviction.
15 Such period shall not be modified; or

16 3. A revocation pursuant to paragraph 2 of subsection A of
17 Section 6-205 of this title, or to Section 753 or 754 of this title
18 shall be for a period of three (3) years if within ten (10) years
19 preceding the date of arrest relating thereto, as shown by the
20 records of the Department:

21 a. two or more prior revocations commenced pursuant to
22 paragraph 2 or 6 of subsection A of Section 6-205 of

1 this title, or to Section 753 or 754 of this title.

2 Such period shall not be modified, ~~or~~

3 b. the record of the person reflects two or more prior
4 convictions in another jurisdiction which did not
5 result in a revocation of Oklahoma driving privileges,
6 for a violation substantially similar to paragraph 2
7 of subsection A of Section 6-205 of this title, and
8 the person was not a resident or a licensee of
9 Oklahoma at the time of the offense resulting in the
10 conviction. Such period shall not be modified, or

11 c. the record of the person reflects a combination of at
12 least one prior revocation as described in
13 subparagraph a of this paragraph, and at least one
14 prior conviction as described in subparagraph b of
15 this paragraph. Such period shall not be modified.

16 B. The driving privilege of a person who is convicted of any
17 offense as provided in paragraph 6 of subsection A of Section 6-205
18 of this title shall be revoked or denied by the Department of Public
19 Safety for the following period, as applicable:

20 1. The first license revocation shall be for one hundred eighty
21 (180) days, which may be modified; provided, for license revocations
22 for a misdemeanor charge of possessing a controlled dangerous
23 substance, the provisions of this paragraph shall apply to any such

1 revocations by the Department on or after January 1, 1993; provided
2 further, any modification under this paragraph shall apply to Class
3 D motor vehicles only;

4 2. A revocation shall be for a period of one (1) year if within
5 ten (10) years preceding the date of arrest relating thereto, as
6 shown by the records of the Department:

7 a. a prior revocation commenced pursuant to paragraph 2
8 or 6 of subsection A of Section 6-205 of this title,
9 or under Section 753 or 754 of this title. Such
10 period shall not be modified, or

11 b. the record of the person reflects a prior conviction
12 in another jurisdiction which did not result in a
13 revocation of Oklahoma driving privileges, for a
14 violation substantially similar to paragraph 2 or 6 of
15 subsection A of Section 6-205 of this title, and the
16 person was not a resident or a licensee of Oklahoma at
17 the time of the offense resulting in the conviction.

18 Such period shall not be modified; or

19 3. A revocation shall be for a period of three (3) years if
20 within ten (10) years preceding the date of arrest relating thereto,
21 as shown by the records of the Department:

22 a. two or more prior revocations commenced pursuant to
23 paragraph 2 or 6 of subsection A of Section 6-205 of

1 this title, or under Section 753 or 754 of this title.
2 Such period shall not be modified, ~~or~~
3 b. the record of the person reflects two or more prior
4 convictions in another jurisdiction which did not
5 result in a revocation of Oklahoma driving privileges,
6 for a violation substantially similar to paragraph 2
7 or 6 of subsection A of Section 6-205 of this title,
8 and the person was not a resident or licensee of
9 Oklahoma at the time of the offense resulting in the
10 conviction. Such period shall not be modified, or
11 c. the record of the person reflects a combination of at
12 least one prior revocation as described in
13 subparagraph a of this paragraph, and at least one
14 prior conviction as described in subparagraph b of
15 this paragraph. Such period shall not be modified.

16 The revocation of the driving privilege of any person under this
17 subsection shall not run concurrently with any other withdrawal of
18 driving privilege resulting from a different incident and which
19 requires the driving privilege to be withdrawn for a prescribed
20 amount of time. A denial based on a conviction of any offense as
21 provided in paragraph 6 of subsection A of Section 6-205 of this
22 title shall become effective on the first day the convicted person
23 is otherwise eligible to apply for and be granted driving privilege

1 if the person was not eligible to do so at the time of the
2 conviction.

3 C. For the purposes of this subsection:

4 1. The term "conviction" includes a juvenile delinquency
5 adjudication by a court or any notification from a court pursuant to
6 Section 6-107.1 of this title; and

7 2. The term "revocation" includes a denial of driving
8 privileges by the Department.

9 D. Each period of revocation not subject to modification shall
10 be mandatory and neither the Department nor any court shall grant
11 driving privileges based upon hardship or otherwise for the duration
12 of that period. Each period of revocation, subject to modification
13 as provided for in this section, may be modified as provided for in
14 Section 754.1 or 755 of this title; provided, any modification under
15 this paragraph shall apply to Class D motor vehicles only.

16 E. Any appeal of a revocation or denial of driving privileges
17 shall be governed by Section 6-211 of this title.

18 SECTION 7. AMENDATORY 47 O.S. 2001, Section 6-205.2, as
19 last amended by Section 19, Chapter 311, O.S.L. 2006 (47 O.S. Supp.
20 2007, Section 6-205.2), is amended to read as follows:

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

23 1. A nonvacated adjudication of guilt;

1 2. A determination that a person has violated or failed to
2 comply with this section in any court or by the Department of Public
3 Safety following an administrative determination;

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

6 4. A plea of guilty or nolo contendere accepted by the court;

7 5. The payment of any fine or court costs; or

8 6. A violation of a condition of release without bail,
9 regardless of whether or not the penalty is rebated, suspended or
10 probated.

11 B. The Department of Public Safety shall disqualify any person
12 from operating a Class A, B or C commercial motor vehicle for a
13 period of not less than one (1) year upon receiving a record of
14 conviction of any of the following disqualifying offenses, when the
15 conviction has become final:

16 1. Driving, operating or being in actual physical control of a
17 Class A, B or C commercial motor vehicle while having a blood or
18 breath alcohol concentration, as defined in Section 756 of this
19 title, or as defined by the state in which the arrest occurred, of
20 four-hundredths (0.04) or more;

21 2. Refusing to submit to a test for determination of alcohol
22 concentration, as required by Section 751 of this title, or as
23 required by the state in which the arrest occurred, while operating

1 a Class A, B or C commercial motor vehicle, or if the person is the
2 holder of a commercial driver license, committing the offense while
3 operating any vehicle;

4 3. Driving or being in actual physical control of a Class A, B
5 or C commercial motor vehicle while under the influence of alcohol
6 or any other intoxicating substance or the combined influence of
7 alcohol and any other intoxicating substance, or if the person is
8 the holder of a commercial driver license, committing the offense
9 while operating any vehicle. Provided, the Department shall not
10 additionally disqualify, pursuant to this subsection, if the
11 person's driving privilege has been disqualified in this state
12 because of a test result or test refusal pursuant to paragraph 1 or
13 2 of this subsection as a result of the same violation arising from
14 the same incident;

15 4. Knowingly leaving the scene of a collision which occurs
16 while operating a Class A, B or C commercial motor vehicle, or if
17 the person is the holder of a commercial driver license, committing
18 the offense while operating any vehicle;

19 5. Any felony during the commission of which a Class A, B or C
20 commercial motor vehicle is used, except a felony involving the
21 manufacture, distribution or dispensation of a controlled dangerous
22 substance, or if the person is the holder of a commercial driver
23 license, committing the offense while operating any vehicle;

1 6. Operating a commercial motor vehicle while the commercial
2 driving privilege is revoked, suspended, canceled, denied, or
3 disqualified; or

4 7. Manslaughter homicide, or negligent homicide occurring as a
5 direct result of negligent operation of a commercial motor vehicle,
6 or, if the person is the holder of a commercial driver license,
7 committing the offense while operating any vehicle.

8 C. The Department of Public Safety shall disqualify any person
9 from operating a Class A, B or C commercial motor vehicle for a
10 period of not less than three (3) years upon receiving a record of
11 conviction of any of the disqualifying offenses described in
12 subsection B of this section, committed in connection with the
13 operation of a motor vehicle which is required to be placarded for
14 hazardous materials under 49 C.F.R., Part 172, subpart F, when the
15 conviction has become final.

16 D. The Department of Public Safety shall disqualify any person
17 from operating a Class A, B or C commercial motor vehicle for life
18 upon receiving a record of conviction in any court of any of the
19 disqualifying offenses described in subsection B of this section
20 after a former conviction of any of the following disqualifying
21 offenses, when the second conviction has become final.

22 The Department of Public Safety may promulgate rules
23 establishing conditions under which a disqualification for life

1 pursuant to the provisions of this subsection may be reduced to a
2 period of not less than ten (10) years provided a previous lifetime
3 disqualification has not been reduced.

4 E. The Department of Public Safety shall disqualify any person
5 from operating a Class A, B or C commercial motor vehicle for life
6 upon receiving a record of conviction for any felony related to the
7 manufacture, distribution or dispensation of a controlled dangerous
8 substance in the commission of which a Class A, B or C commercial
9 motor vehicle is used, or if the person is the holder of a
10 commercial driver license, committing the offense while operating
11 any vehicle, when the conviction has become final.

12 F. The Department of Public Safety shall disqualify any person
13 from operating a Class A, B or C commercial motor vehicle for sixty
14 (60) days upon receiving a record of a second conviction of the
15 person for a serious traffic offense arising out of separate
16 transactions or occurrences within a three-year period, when the
17 convictions have become final. The Department of Public Safety
18 shall disqualify any person from operating a Class A, B or C
19 commercial motor vehicle for one hundred twenty (120) days upon
20 receiving a record of a third conviction of a person for a serious
21 traffic offense arising out of separate transactions or occurrences
22 within a three-year period, when the convictions have become final;
23 provided, the one-hundred-twenty-day period shall run in addition to

1 and shall not run concurrently with any other period
2 disqualification imposed pursuant to this subsection. As used in
3 this subsection, "serious traffic offense" shall mean any of the
4 following offenses committed while operating a commercial motor
5 vehicle:

- 6 1. Speeding fifteen (15) miles per hour or more over the limit;
- 7 2. Reckless driving;
- 8 3. Any traffic offense committed that results in or in
9 conjunction with a motor vehicle collision resulting in a fatality;
- 10 4. Erratic or unsafe lane changes;
- 11 5. Following too ~~close~~ closely;
- 12 6. Failure to obtain a commercial driver license;
- 13 7. Failure to have in possession of the person a commercial
14 driver license; or
- 15 8. Failure to have:
 - 16 a. the proper class of commercial driver license for the
17 class of vehicle being operated,
 - 18 b. the proper endorsement or endorsements for the type of
19 vehicle being operated, including but not limited to,
20 passengers or type of cargo being transported, or
 - 21 c. both proper class and proper endorsement, as provided
22 in subparagraphs a and b of this paragraph.

1 G. Upon the receipt of a person's record of conviction of
2 violating a lawful out-of-service order, except as provided in
3 subsection H of this section, when the conviction becomes final, the
4 Department shall disqualify the driving privilege of the person as
5 follows:

6 1. The first conviction shall result in a ninety-day
7 disqualification;

8 2. The second conviction within ten (10) years shall result in
9 a one-year disqualification; and

10 3. The third or subsequent conviction within ten (10) years
11 shall result in a three-year disqualification.

12 H. Upon the receipt of a person's record of conviction of
13 violating a lawful out-of-service order while transporting hazardous
14 materials required to be placarded under the Hazardous Materials
15 Transportation Act (49 P. app. 1801-1813), or while operating motor
16 vehicles designed for transport of more than fifteen passengers,
17 including the driver, when the conviction becomes final, the
18 Department shall disqualify the driving privilege of the person as
19 follows:

20 1. The first conviction shall result in a one-year
21 disqualification; and

22 2. The second or subsequent conviction within ten (10) years
23 shall result in a three-year disqualification.

1 I. Upon determination by the Department that fraudulent
2 information was used to apply for or obtain a Class A, B or C driver
3 license, the Department shall disqualify the driving privilege of
4 the applicant or licensee for a period of sixty (60) days.

5 J. Any person who drives a Class A, B or C commercial motor
6 vehicle on any public roads, streets, highways, turnpikes or any
7 other public place of this state at a time when the person has been
8 disqualified or when the privilege to do so is canceled, denied,
9 suspended or revoked shall be guilty of a misdemeanor and upon
10 conviction shall be punished by a fine of not less than One Hundred
11 Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00),
12 or by imprisonment for not more than one (1) year, or by both such
13 fine and imprisonment. Each act of driving as prohibited shall
14 constitute a separate offense.

15 K. Upon the receipt of the record of a conviction of a person
16 of a railroad highway grade crossing offense in a commercial motor
17 vehicle, pursuant to Sections 11-701 or 11-702 of this title or
18 Section 11-1115 of this title, or upon receipt of an equivalent
19 conviction from any state, when the conviction becomes final, the
20 Department shall disqualify the driving privileges of the person
21 convicted as follows:

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

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

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

5 L. The Department, upon receipt of a written notice of
6 immediate disqualification issued by the Federal Motor Carrier
7 Safety Administration under 49 CFR 383.52, shall immediately
8 disqualify the person's commercial driving privilege for the period
9 of time specified on the written notice.

10 M. 1. Upon receipt of notification from another state that any
11 person who is the holder of an Oklahoma Class A, B, or C commercial
12 driver license has failed to comply with a traffic citation,
13 including, but not limited to, failure to appear or failure to pay,
14 the Department shall disqualify the person's commercial driving
15 privileges. The Department shall review such notification as it
16 would review comparable notifications in this state, and if such
17 notice is discovered to be improper or questionable, the Department
18 may decline to initiate such disqualification. In addition, the
19 Department shall not be required to disqualify the person if his or
20 her driving privileges are or have already been subject to
21 suspension, pursuant to Section 1115.5 of Title 22 of the Oklahoma
22 Statutes, arising from the same incident.

1 2. A person whose driving privileges are subject to
2 disqualification for failure to comply with a traffic citation may
3 stay the effective date of the disqualification or, if disqualified,
4 shall be eligible for reinstatement, if otherwise eligible, upon:

5 a. making application therefor to the Department, and

6 b. showing proof from the court that such failure has
7 been satisfied.

8 N. When a person makes application for an Oklahoma Class A, B,
9 or C commercial driver license, the Department shall review such
10 person's driving record in other states for the immediately
11 preceding ten (10) years, unless the record review has already been
12 performed. If the Department finds that:

13 1. Such person has been convicted while holding a commercial
14 driver license of any offense which would be cause for
15 disqualification of commercial motor vehicle driving privileges
16 pursuant to this section; and

17 2. Such person's commercial motor vehicle driving privileges
18 have not been previously disqualified in the jurisdiction where the
19 conviction occurred or in any other subsequent state prior to such
20 person's application for an Oklahoma Class A, B, or C commercial
21 driver license;

1 the Department shall disqualify such person's commercial motor
2 vehicle driving privileges as if the conviction had occurred in this
3 state.

4 O. The periods of disqualification as defined by this section
5 shall not be modified. A person may not be granted driving
6 privileges to operate a Class A, B or C commercial vehicle until the
7 disqualification is reinstated.

8 ~~N.~~ P. When any record of conviction, as specified in this
9 section, is received by the Department and pertains to a nonresident
10 operator of a Class A, B or C commercial motor vehicle, or if the
11 nonresident operator is the holder of a commercial driver license, a
12 record of the conviction pertaining to the nonresident operator of
13 any vehicle, the Department shall not disqualify the person and
14 shall report the conviction to the licensing jurisdiction in which
15 the license of the nonresident to operate the commercial vehicle was
16 issued.

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

20 SECTION 8. AMENDATORY 47 O.S. 2001, Section 18-101, as
21 last amended by Section 31, Chapter 16, O.S.L. 2006 (47 O.S. Supp.
22 2007, Section 18-101), is amended to read as follows:

1 Section 18-101. A. Every magistrate or judge of a court shall
2 keep or cause to be kept a record of every traffic complaint,
3 traffic citation, or other legal form of traffic charge deposited
4 with or presented to the court or its traffic-violations bureau, and
5 shall keep a record of every official action by the court or its
6 traffic-violations bureau, including, but not limited to, a record
7 of every conviction, forfeiture of bail, judgment of acquittal, and
8 the amount of fine or forfeiture resulting from every traffic
9 complaint, citation or other legal form of traffic charge deposited
10 with or presented to the court or traffic-violations bureau.

11 B. Within ten (10) days after:

12 1. The conviction of any person holding a Class D driver
13 license; or

14 2. The conviction, as defined in subsection A of Section 6-
15 205.2 of this title, of any person holding a Class A, B or C driver
16 license; or

17 3. The forfeiture of bail of a person;
18 upon a charge of violating any law regulating the operation of
19 vehicles on highways every magistrate of the court or clerk of the
20 court of record, in which the conviction was had or bail was
21 forfeited, shall prepare and immediately forward to the Department
22 of Public Safety an abstract of the record covering the case in
23 which the person was convicted or forfeited bail, which shall be

1 certified by the person required to prepare the abstract to be true
2 and correct.

3 C. A report shall not be made of any conviction:

4 1. Involving the illegal parking or standing of a vehicle;

5 2. Rendered by a nonlawyer judge, unless, within a period not
6 to exceed the preceding reporting period for Mandatory Continuing
7 Legal Education, the judge has completed courses held for municipal
8 judges which have been approved by the Oklahoma Bar Association
9 Mandatory Legal Education Commission for at least six (6) hours of
10 continuing judicial education credit, and the Department of Public
11 Safety receives verification of such attendance, from the judge. In
12 the case of attendance of a continuing judicial education course,
13 verification may be made by a statement of attendance signed by the
14 course registration personnel; or

15 3. Involving a felony drug offense for which the offender is
16 eligible for participation in an approved drug court program;
17 provided, if the offender is the holder of an Oklahoma Class A, B,
18 or C commercial driver license, or the offense occurred while the
19 offender was operating a commercial motor vehicle, then the
20 conviction shall be reported to the Department of Public Safety,
21 notwithstanding the offender's participation, or eligibility to
22 participate, in an approved drug court program. However, if the
23 offender does not successfully complete the drug court program, the

1 abstract of the record shall be forwarded as provided in subsection
2 B of this section.

3 D. The abstract shall be made upon a form furnished by the
4 Department and shall include:

5 1. The name, address, sex, and date of birth of the person
6 charged;

7 2. The traffic citation number;

8 3. The driver license number, if any, of the person charged,
9 and the state or jurisdiction from which the license is issued;

10 4. The license plate number, make, and model of the vehicle
11 involved;

12 5. The nature and date of the offense, the date of hearing, the
13 plea, the judgment, or, if bail was forfeited, the amount of the
14 fine or forfeiture; and

15 6. The name of the court and whether it is a municipal or
16 district court.

17 E. Every court of record shall also forward a like report to
18 the Department upon the conviction of any person of manslaughter or
19 other felony in the commission of which a vehicle was used.

20 F. The failure, refusal or neglect of any judicial officer to
21 comply with any of the requirements of this section shall constitute
22 misconduct in office and shall be ground for removal.

1 SECTION 9. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-19-08 - DO
6 PASS, As Amended and Coauthored.