

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 2ND CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1185

By: Barrington and Easley of
the Senate

6 and

7 Christian, Tibbs and
8 Shelton of the House

9
10 2ND CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to public safety; amending 47 O.S.
12 2001, Section 1-107.4, as amended by Section 3,
13 Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2008, Section
14 1-107.4), which relates to definition of words and
15 phrases; modifying certain definition; expanding
16 scope of certain definition; amending 47 O.S. 2001,
17 Sections 6-111, as last amended by Section 24,
18 Chapter 3, O.S.L. 2008 and 6-205.1, as last amended
19 by Section 11, Chapter 326, O.S.L. 2007 (47 O.S.
20 Supp. 2008, Sections 6-111 and 6-205.1), which relate
21 to cancellation, suspension and revocation of
22 licenses; requiring development of certain type of
23 license; allowing for modification of revocation of
24 certain license; amending 47 O.S. 2001, Section
754.1, as last amended by Section 17, Chapter 394,
O.S.L. 2005 (47 O.S. Supp. 2008, Section 754.1),
which relates to modification of revocation or
denial; modifying certain fees; and providing an
effective date.

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

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 1-107.4, as
2 amended by Section 3, Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2008,
3 Section 1-107.4), is amended to read as follows:

4 Section 1-107.4

5 CLASS D MOTOR VEHICLE

6 A. A Class D motor vehicle is any motor vehicle or combination
7 of vehicles which:

8 1. Regardless of weight:

9 a. is marked and used as an authorized emergency vehicle,
10 as defined in Section 1-103 of this title, or

11 b. is designed and used solely as a recreational vehicle;

12 2. Is a single or combination vehicle with a gross combined
13 weight rating of less than twenty-six thousand one (26,001) pounds;
14 ~~or~~

15 3. Is a single or combination farm vehicle with a gross
16 combined weight rating of more than twenty-six thousand one (26,001)
17 pounds if:

18 a. it is entitled to be registered with a farm tag and
19 has a farm tag attached thereto,

20 b. it is controlled and operated by a farmer, his or her
21 family or ~~his~~ employees,

22 c. it is used to transport either agricultural products,
23 farm machinery, farm supplies or any combination of
24 those materials to or from a farm,

- 1 d. it is not used in the operations of a common or
2 contract motor carrier, and
3 e. it is used within one hundred fifty (150) air miles of
4 the person's farm or as otherwise provided by federal
5 law; or

6 4. Is operated by a driver employed by a unit of local
7 government that operates a commercial motor vehicle within the
8 boundaries of that unit of local government for the purpose of
9 removing snow or ice from a roadway by plowing, sanding or salting,
10 if:

- 11 a. the properly licensed employee who ordinarily operates
12 a commercial vehicle for these purposes is unable to
13 operate the vehicle, or
14 b. the employing governmental entity determines that a
15 snow or ice emergency requires additional assistance.

16 B. A Class D Motor Vehicle shall not include any vehicle which
17 is:

18 1. Designed to carry sixteen or more passengers, including the
19 driver; or

20 2. Required to be placarded for hazardous materials under 49
21 C.F.R., Part 172, subpart F; provided, a farm vehicle, as defined in
22 paragraph 3 of subsection A of this section, which is required to be
23 placarded for hazardous materials under 49 C.F.R., Part 172, subpart
24 F, shall be considered to be a Class D motor vehicle.

1 SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-111, as
2 last amended by Section 24, Chapter 3, O.S.L. 2008 (47 O.S. Supp.
3 2008, Section 6-111), is amended to read as follows:

4 Section 6-111. A. 1. The Department of Public Safety shall,
5 upon payment of the required fee, issue to every applicant
6 qualifying therefor a Class A, B, C or D driver license or
7 identification card as applied for, which license or card shall bear
8 thereon a distinguishing alphanumeric identification assigned to the
9 licensee or cardholder, date of issuance and date of expiration of
10 the license or card, the full name, signature or computerized
11 signature, date of birth, residence address, sex, a color photograph
12 or computerized image of the licensee or cardholder and security
13 features as determined by the Department. The photograph or image
14 shall depict a full front unobstructed view of the entire face of
15 the licensee or cardholder. When any person is issued both a driver
16 license and an identification card, the Department shall ensure the
17 information on both the license and the card are the same, unless
18 otherwise provided by law.

19 2. A driver license or identification card issued by the
20 Department on or after March 1, 2004, shall bear thereon the county
21 of residence of the licensee or cardholder.

22 3. The Department may cancel the distinguishing number, when
23 that distinguishing number is another person's Social Security
24 number, assign a new distinguishing alphanumeric identification, and

1 issue a new license or identification card without charge to the
2 licensee or cardholder.

3 4. The Department may promulgate rules for inclusion of the
4 height and a brief description of the licensee or cardholder on the
5 face of the card or license identifying the licensee or cardholder
6 as deaf or hard-of-hearing.

7 5. It is unlawful for any person to apply, adhere, or otherwise
8 attach to a driver license or identification card any decal,
9 sticker, label, or other attachment. Any law enforcement officer is
10 authorized to remove and dispose of any unlawful decal, sticker,
11 label, or other attachment from the driver license of a person. The
12 law enforcement officer, the employing agency of the officer, the
13 Department of Public Safety, and the State of Oklahoma shall be
14 immune from any liability for any loss suffered by the licensee,
15 cardholder, or the owner of the decal, sticker, label, or other
16 attachment caused by the removal and destruction of the decal,
17 sticker, label, or other attachment.

18 6. The Department of Public Safety shall develop by rule an
19 alternative procedure whereby a person applying for a renewal or
20 replacement Class D license or identification card, when the person
21 satisfactorily demonstrates to the Department the inability to
22 appear personally to be photographed because the person is not in
23 the state at the time of renewal or at a time a replacement is
24 required by the person, may be issued a license or card; provided,

1 immediately upon returning to Oklahoma, the person shall obtain a
2 replacement license or card as provided in Section 6-114 of this
3 title.

4 B. The Department may issue a temporary permit to an applicant
5 for a driver license permitting such applicant to operate a motor
6 vehicle while the Department is completing its investigation and
7 determination of all facts relative to such applicant's privilege to
8 receive a license. Such permit must be in the immediate possession
9 of the driver while operating a motor vehicle, and it shall be
10 invalid when the applicant's driver license has been issued or for
11 good cause has been refused.

12 C. 1. The Department may issue a restricted commercial driver
13 license to seasonal drivers eighteen (18) years of age or older for
14 any of the following specific farm-related service industries:

- 15 a. farm retail outlets and suppliers,
- 16 b. agri-chemical businesses,
- 17 c. custom harvesters, and
- 18 d. livestock feeders.

19 The applicant shall hold a valid Oklahoma driver license and
20 shall meet all the requirements for a commercial driver license.
21 The restricted commercial driver license shall not exceed a total of
22 one hundred eighty (180) days within any twelve-month period.

23 2. The restricted commercial driver license shall not be valid
24 for operators of commercial motor vehicles beyond one hundred fifty

1 (150) miles from the place of business or the farm currently being
2 served. Such license shall be limited to Class B vehicles. Holders
3 of such licenses who transport hazardous materials which are
4 required to be placarded shall be limited to the following:

- 5 a. diesel fuel in quantities of one thousand (1,000)
6 gallons or less,
- 7 b. liquid fertilizers in vehicles with total capacities
8 of three thousand (3,000) gallons or less, and
- 9 c. solid fertilizers that are not mixed with any organic
10 substance.

11 No other placarded hazardous materials shall be transported by
12 holders of such licenses.

13 D. 1. The Department shall develop a procedure whereby a
14 person applying for an original, renewal or replacement Class A, B,
15 C or D driver license or identification card who is required to
16 register as a convicted sex offender with the Department of
17 Corrections pursuant to the provisions of the Sex Offenders
18 Registration Act and who the Department of Corrections designates as
19 an aggravated or habitual offender pursuant to subsection J of
20 Section 584 of Title 57 of the Oklahoma Statutes shall be issued a
21 license or card bearing the words "Sex Offender".

22 2. The Department shall notify every person subject to
23 registration under the provisions of this act who holds a current
24 Class A, B, C or D driver license or identification card that such

1 person is required to surrender the license or card to the
2 Department within one hundred eighty (180) days from the date of the
3 notice.

4 3. Upon surrendering the license or card for the reason set
5 forth in this subsection, application may be made with the
6 Department for a replacement license or card bearing the words "Sex
7 Offender".

8 4. Failure to comply with the requirements set forth in such
9 notice shall result in cancellation of the person's license or card.
10 Such cancellation shall be in effect for one (1) year, after which
11 time the person may make application with the Department for a new
12 license or card bearing the words "Sex Offender". Continued use of
13 a canceled license or card shall constitute a misdemeanor and shall,
14 upon conviction thereof, be punishable by a fine of not less than
15 Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars
16 (\$200.00). When an individual is no longer required to register as
17 a convicted sex offender with the Department of Corrections pursuant
18 to the provisions of the Sex Offenders Registration Act, the
19 individual shall be eligible to receive a driver license or
20 identification card which does not bear the words "Sex Offender".

21 E. Nothing in subsection D of this section shall be deemed to
22 impose any liability upon or give rise to a cause of action against
23 any employee, agent or official of the Department of Corrections for
24 failing to designate a sex offender as an aggravated or habitual

1 offender pursuant to subsection J of Section 584 of Title 57 of the
2 Oklahoma Statutes.

3 F. The Department shall develop a procedure whereby a person
4 applying for an original, renewal or replacement Class D driver
5 license who has been granted modified driving privileges under this
6 title shall be issued a Class D driver license which identifies the
7 license as a modified license.

8 SECTION 3. AMENDATORY 47 O.S. 2001, Section 6-205.1, as
9 last amended by Section 11, Chapter 326, O.S.L. 2007 (47 O.S. Supp.
10 2008, Section 6-205.1), is amended to read as follows:

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

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

24

1 2. A revocation pursuant to paragraph 2 of subsection A of
2 Section 6-205 of this title, or to Section 753 or 754 of this title
3 shall be for a period of one (1) year if within ten (10) years
4 preceding the date of arrest relating thereto, as shown by the
5 records of the Department:

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

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

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

23 a. two or more prior revocations commenced pursuant to
24 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~~ may 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~~ may be modified.

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

15 1. The first license revocation shall be for one hundred eighty
16 (180) days, which may be modified; provided, for license revocations
17 for a misdemeanor charge of possessing a controlled dangerous
18 substance, the provisions of this paragraph shall apply to any such
19 revocations by the Department on or after January 1, 1993; provided
20 further, any modification under this paragraph shall apply to Class
21 D motor vehicles only;

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

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

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

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

16 a. two or more prior revocations commenced pursuant to
17 paragraph 2 or 6 of subsection A of Section 6-205 of
18 this title, or under Section 753 or 754 of this title.
19 Such period shall not be modified, or

20 b. the record of the person reflects two or more prior
21 convictions in another jurisdiction which did not
22 result in a revocation of Oklahoma driving privileges,
23 for a violation substantially similar to paragraph 2
24 or 6 of subsection A of Section 6-205 of this title,

1 and the person was not a resident or licensee of
2 Oklahoma at the time of the offense resulting in the
3 conviction. Such period shall not be modified.

4 The revocation of the driving privilege of any person under this
5 subsection shall not run concurrently with any other withdrawal of
6 driving privilege resulting from a different incident and which
7 requires the driving privilege to be withdrawn for a prescribed
8 amount of time. A denial based on a conviction of any offense as
9 provided in paragraph 6 of subsection A of Section 6-205 of this
10 title shall become effective on the first day the convicted person
11 is otherwise eligible to apply for and be granted driving privilege
12 if the person was not eligible to do so at the time of the
13 conviction.

14 C. For the purposes of this subsection:

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

18 2. The term "revocation" includes a denial of driving
19 privileges by the Department.

20 D. Each period of revocation not subject to modification shall
21 be mandatory and neither the Department nor any court shall grant
22 driving privileges based upon hardship or otherwise for the duration
23 of that period. Each period of revocation, subject to modification
24 as provided for in this section, may be modified as provided for in

1 Section 754.1 or 755 of this title; provided, any modification under
2 this paragraph shall apply to Class D motor vehicles only.

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

5 SECTION 4. AMENDATORY 47 O.S. 2001, Section 754.1, as
6 last amended by Section 17, Chapter 394, O.S.L. 2005 (47 O.S. Supp.
7 2008, Section 754.1), is amended to read as follows:

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

17 B. As a prerequisite and condition of any modification, the
18 person shall be required to have installed an ignition interlock
19 device approved by the Board of Tests for Alcohol and Drug
20 Influence, at the person's own expense, upon every motor vehicle
21 operated by the person. The Department shall require, as a
22 condition of modification, the device to be installed upon any
23 vehicle owned or leased, as reflected on the vehicle registration,
24 by an employer of the person for use by the person, except when the

1 employer requests the ignition interlock device not be installed.
2 The request shall be in writing and notarized on the official
3 letterhead of the employer and provided by the person to the
4 Department; provided, a request shall not be accepted by the
5 Department under the following circumstances:

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

9 2. When the person is employed by a relative who either is
10 within the first degree of consanguinity or who resides in the same
11 household.

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

14 C. Upon the issuance of a modification order pursuant to this
15 section or Section 755 of this title, or under the provisions of
16 paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of
17 subsection B of Section 6-205.1 of this title, for a violation of
18 this title, the person shall pay a modification fee of ~~One Hundred~~
19 ~~Fifty Dollars (\$150.00)~~ One Hundred Seventy-five Dollars (\$175.00)
20 to the Department. For each modification fee collected pursuant to
21 the provisions of this ~~section~~ subsection, One Hundred Dollars
22 (\$100.00) shall be remitted to the State Treasurer to be credited to
23 the General Revenue Fund in the State Treasury and ~~Fifty Dollars~~
24 ~~(\$50.00)~~ Seventy-five Dollars (\$75.00) shall be remitted to the

1 State Treasurer to be credited to the Department of Public Safety
2 Revolving Fund. All monies accruing to the credit of the Department
3 of Public Safety Revolving Fund from modification fees shall be
4 budgeted and expended solely for the purpose of administering the
5 provisions of this section and Section 755 of this title.

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

10 SECTION 5. This act shall become effective November 1, 2009.

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