ENGROSSED HOUSE
BILL NO. 1645

By: Rousselot, Duncan and Roan of the House

and

Ballenger of the Senate

An Act relating to public safety; amending 22 O.S. 2001, Sections 1115.1, as amended by Section 3, Chapter 204, O.S.L. 2006, 1115.2, as amended by Section 4, Chapter 204, O.S.L. 2006 and 1115.5, as amended by Section 1, Chapter 392, O.S.L. 2003 (22 O.S. Supp. 2008, Sections 1115.1, 1115.2 and 1115.5), which relate to the State and Municipal Traffic, Water Safety, and Wildlife Bail Bond Procedure Act; providing conditions for release upon personal recognizance for certain violations; requiring notification of possible driving privilege suspension in home state for nonresidents; giving courts the discretion to continue or reschedule arraignments; authorizing release of defendants under certain circumstances; requiring the Department of Public Safety to forward driving privilege suspension requests to certain states; clarifying procedure for multiple requests for driving privilege suspensions; amending 47 O.S. 2001, Section 6-111, as last amended by Section 24, Chapter 3, O.S.L. 2008 (47 O.S. Supp. 2008, Section 6-111), which relates to the issuance of driver licenses or identification cards; clarifying requirements for photographs or images on driver licenses and identification cards; amending 47 O.S. 2001, Section 6-205.2, as last amended by Section 19, Chapter 311, O.S.L. 2006 (47 O.S. Supp. 2008, Section 6-205.2), which relates to cancellation, suspension and revocation of driver licenses; providing set periods for disqualification of driving privileges for violating out-of-service orders; deleting certain disqualification periods; directing the Department of Public Safety to review prior driving records of certain applicants; requiring disqualification of commercial motor vehicle driving privileges under certain

circumstances; amending 47 O.S. 2001, Section 18-101, as last amended by Section 31, Chapter 16, O.S.L. 2006 (47 O.S. Supp. 2008, Section 18-101), which relates to records and reports of traffic convictions; requiring report to the Department of certain conviction for offenders with certain licenses; and declaring an 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. 2008, 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;

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

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

4. The violation does not constitute:

a. a felony, ~~or~~

b. negligent homicide, ~~or~~

c. driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances~~, unless the~~; provided, any person who is unconscious or injured and who requires immediate medical treatment as determined by a treating physician may be released on the person's own recognizance for medical reasons by the arresting officer, as prescribed in subsection D of Section 751 of Title 47 of the Oklahoma Statutes. The arresting officer who releases an arrested person on personal recognizance pursuant to this subparagraph shall indicate the release on the face of the citation. Any person released on his or her own recognizance pursuant to this subparagraph shall remain at liberty pending the filing of charges, ~~or~~

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

e. operating a motor vehicle without having been issued a valid driver license, or while the driving privilege and driver license is under suspension, revocation, denial or cancellation; provided, if the arresting law enforcement officer, for good cause or because in the judgment of the arresting officer extraordinary circumstances exist which are beyond the control of the officer, may release the person on personal recognizance. The arresting officer who releases an arrested person on personal recognizance pursuant to this subparagraph shall indicate the release on the face of the citation. Any person released on his or her own recognizance pursuant to this subparagraph shall remain at liberty pending the filing of charges, ~~or~~

f. an arrest based upon an outstanding warrant, or

g. a traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph.

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

1. Designate the traffic charge;

2. Record information from the ~~arrested person's~~ driver license of the arrested person on the citation form, including the name,

address, date of birth, ~~personal~~ physical description, type of driver license, driver license number, issuing state, and expiration date;

3. Record the motor vehicle make, model and tag information;

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

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

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

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment at the discretion of the court or upon request of the arrested person or the attorney for that person. If the arraignment is continued or

rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time. Provided, however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in subsection D of this section.

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

shall be accepted by the court and the amount of the fine and costs shall be:

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

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

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

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

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

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

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

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

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

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

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

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

c. the violation relates to parking or standing, or

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

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

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

Department of Public Safety. Provided, however, the failure of the court or court ~~clerk's failure~~ clerk to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the State of Oklahoma or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 1115.2, as amended by Section 4, Chapter 204, O.S.L. 2006 (22 O.S. Supp. 2008, Section 1115.2), is amended to read as follows:

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

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

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

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

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

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

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

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

C. 1. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this section, but shall be incarcerated separately from any adult offender. Provided however, the arresting officer shall not be required to:

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

b. place any other traffic offender into custody:

(1) who is injured, disabled, or otherwise incapacitated, ~~or~~

(2) if custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo,

or items requiring special maintenance or care, or

(3) if extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may designate the date and time on the citation by which, or on which, the person shall appear or contact the court, as applicable to the court, and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the person's arrest.

2. The provisions of this subsection shall not be construed to:

a. create any duty on the part of the officer to release a person from custody, ~~or~~

b. create any duty on the part of the officer to make any inquiry or investigation relating to any condition which may justify release under this subsection, or

c. create any liability upon any officer, or the state or any political subdivision thereof, arising from the decision to release or not to release such person from custody pursuant to the provisions of this subsection.

SECTION 3. AMENDATORY 22 O.S. 2001, Section 1115.5, as amended by Section 1, Chapter 392, O.S.L. 2003 (22 O.S. Supp. 2008, Section 1115.5), is amended to read as follows:

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

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

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

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

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

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

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

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

a. making application therefore to the Department of Public Safety, ~~and~~

b. showing proof from the court or court clerk that the person has entered an appearance in the case which was the basis for the suspension action and was released by the court as provided for by the Nonresident Violator Compact or consistent provisions, and

c. submitting with the application the fees, as provided for in Section 6-212 of Title 47 of the Oklahoma Statutes. The fees shall be remitted to the State Treasurer to be credited to the General Revenue Fund of the State Treasury~~;~~.

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

D. Any person whose driving privilege is suspended or subject to suspension in this state pursuant to the provisions of this section, at any time, may informally present specific reasons or documentation to the Department of Public Safety to show that such suspension may be unwarranted. The Department of Public Safety may stay the suspension or suspension action pending receipt of further information or documentation from the person or from the jurisdiction requesting such suspension, or pending review of the record, or other inquiry. If the Department of Public Safety determines the suspension is unwarranted, the suspension action shall be withdrawn or vacated without the requirement of a processing fee and a reinstatement fee and the Department of Public Safety shall accordingly notify the jurisdiction which requested the suspension. If, however, the request for suspension appears valid, the Department of Public Safety shall proceed with suspension of the ~~person's~~ driving privilege of the person and the person shall have the right to appeal as provided for by Section 6-211 of Title 47 of the Oklahoma Statutes. Provided, however, the court shall not consider modification, but shall either sustain or vacate the

~~Department of Public Safety's~~ order of suspension of the Department of Public Safety based upon the records on file with the Department of Public Safety, the law and other relevant evidence.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 6-111, as last amended by Section 24, Chapter 3, O.S.L. 2008 (47 O.S. Supp. 2008, Section 6-111), is amended to read as follows:

Section 6-111. A. 1. The Department of Public Safety shall, upon payment of the required fee, issue to every applicant qualifying therefor a Class A, B, C or D driver license or identification card as applied for, which license or card shall bear thereon a distinguishing alphanumeric identification assigned to the licensee or cardholder, date of issuance and date of expiration of the license or card, the full name, signature or computerized signature, date of birth, residence address, sex, a color photograph or computerized image of the licensee or cardholder and security features as determined by the Department. The photograph or image shall clearly identify the licensee or cardholder and shall depict a full front unobstructed view of the entire ~~face~~ head and shoulders of the licensee or cardholder. Hats, head scarves, head garments, bandanas, prescription or nonprescription glasses or sunglasses, masks or costumes that cover or partially cover the head or shoulders are strictly prohibited and shall not be worn by the licensee or cardholder when being photographed for a license or identification card. When any person is issued both a driver

license and an identification card, the Department shall ensure the information on both the license and the card are the same, unless otherwise provided by law.

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

3. The Department may cancel the distinguishing number, when that distinguishing number is another person's Social Security number, assign a new distinguishing alphanumeric identification, and issue a new license or identification card without charge to the licensee or cardholder.

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

5. It is unlawful for any person to apply, adhere, or otherwise attach to a driver license or identification card any decal, sticker, label, or other attachment. Any law enforcement officer is authorized to remove and dispose of any unlawful decal, sticker, label, or other attachment from the driver license of a person. The law enforcement officer, the employing agency of the officer, the Department of Public Safety, and the State of Oklahoma shall be immune from any liability for any loss suffered by the licensee, cardholder, or the owner of the decal, sticker, label, or other

attachment caused by the removal and destruction of the decal, sticker, label, or other attachment.

6. The Department of Public Safety shall develop by rule an alternative procedure whereby a person applying for a renewal or replacement Class D license or identification card, when the person satisfactorily demonstrates to the Department the inability to appear personally to be photographed because the person is not in the state at the time of renewal or at a time a replacement is required by the person, may be issued a license or card; provided, immediately upon returning to Oklahoma, the person shall obtain a replacement license or card as provided in Section 6-114 of this title.

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

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

a. farm retail outlets and suppliers,

b. agri-chemical businesses,

c. custom harvesters, and

d. livestock feeders.

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

2. The restricted commercial driver license shall not be valid for operators of commercial motor vehicles beyond one hundred fifty (150) miles from the place of business or the farm currently being served. Such license shall be limited to Class B vehicles. Holders of such licenses who transport hazardous materials which are required to be placarded shall be limited to the following:

a. diesel fuel in quantities of one thousand (1,000) gallons or less,

b. liquid fertilizers in vehicles with total capacities of three thousand (3,000) gallons or less, and

c. solid fertilizers that are not mixed with any organic substance.

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

D. 1. The Department shall develop a procedure whereby a person applying for an original, renewal or replacement Class A, B, C or D driver license or identification card who is required to

register as a convicted sex offender with the Department of Corrections pursuant to the provisions of the Sex Offenders Registration Act and who the Department of Corrections designates as an aggravated or habitual offender pursuant to subsection J of Section 584 of Title 57 of the Oklahoma Statutes shall be issued a license or card bearing the words "Sex Offender".

2. The Department shall notify every person subject to registration under the provisions of this act who holds a current Class A, B, C or D driver license or identification card that such person is required to surrender the license or card to the Department within one hundred eighty (180) days from the date of the notice.

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

4. Failure to comply with the requirements set forth in such notice shall result in cancellation of the person's license or card. Such cancellation shall be in effect for one (1) year, after which time the person may make application with the Department for a new license or card bearing the words "Sex Offender". Continued use of a canceled license or card shall constitute a misdemeanor and shall, upon conviction thereof, be punishable by a fine of not less than Twenty-five Dollars ($25.00), nor more than Two Hundred Dollars

($200.00). When an individual is no longer required to register as a convicted sex offender with the Department of Corrections pursuant to the provisions of the Sex Offenders Registration Act, the individual shall be eligible to receive a driver license or identification card which does not bear the words “Sex Offender”.

E. Nothing in subsection D of this section shall be deemed to impose any liability upon or give rise to a cause of action against any employee, agent or official of the Department of Corrections for failing to designate a sex offender as an aggravated or habitual offender pursuant to subsection J of Section 584 of Title 57 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 47 O.S. 2001, Section 6-205.2, as last amended by Section 19, Chapter 311, O.S.L. 2006 (47 O.S. Supp. 2008, 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 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;

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

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

7. 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 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 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 if the person is the holder of a

commercial driver license, committing the offense while operating any vehicle, when 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 a second conviction of the person for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when 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 a third conviction of a person for a serious traffic offense arising out of separate transactions or occurrences within a three-year period, when the convictions have become final; provided, 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~~ closely;

6. Failure to obtain a commercial driver license;

7. Failure to have in possession of the person a commercial driver license; or

8. 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 the conviction becomes final, the Department shall disqualify the driving privilege of the person as follows:

1. ~~The~~ For a first conviction ~~shall result in a ninety day~~ for violating an out-of-service order:

a. except as provided in subparagraph b of this paragraph, the period of disqualification~~,~~ shall be for ninety (90) days, or

b. while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation

Act (49 P. app. 1801-1813), or while operating a motor vehicle designed for transport of sixteen or more passengers, including the driver, the period of disqualification shall be for one (1) year;

2. ~~The~~ For a second conviction within ten (10) years ~~shall result in a one year~~ for violating an out-of-service order:

a. except as provided in subparagraph b of this paragraph, the period of disqualification shall be for one (1) year, or

b. while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 P. app. 1801-1813), or while operating a motor vehicle designed for transport of sixteen or more passengers, including the driver, the period of disqualification shall be for three (3) years; and

3. ~~The~~ For a third or subsequent conviction within ten (10) years ~~shall result in a three-year~~ for violating an out-of-service order, the period of disqualification shall be for three (3) years.

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 the conviction becomes final, the~~

~~Department shall disqualify the driving privilege of 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.~~ I. 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 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.~~ J. 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.~~ K. 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.~~ L. 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.

M. When a person makes application for an Oklahoma Class A, B, or C commercial driver license, the Department shall review the prior driving record of the person in other states for the immediately preceding ten (10) years, unless the record review has already been performed. If the Department finds that:

1. The person has been convicted while the holder of a commercial driver license for any offense which is the cause for disqualification of commercial motor vehicle driving privileges pursuant to this section; and

2. The person has not been previously disqualified in the jurisdiction where the conviction occurred or any subsequent state prior to making application for an Oklahoma Class A, B, or C commercial driver license,

the Department shall disqualify the commercial driving privileges as if the violation had originally occurred in Oklahoma.

N. When any 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 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 the conviction to the licensing jurisdiction in which the license of the nonresident to operate 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 6. AMENDATORY 47 O.S. 2001, Section 18-101, as last amended by Section 31, Chapter 16, O.S.L. 2006 (47 O.S. Supp. 2008, Section 18-101), is amended to read as follows:

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

B. Within ten (10) days after:

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

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

3. The forfeiture of bail of a person;

upon a charge of violating any law regulating the operation of vehicles on highways every magistrate of the court or clerk of the court of record, in which the conviction was had or bail was forfeited, shall prepare and immediately forward to the Department

of Public Safety an abstract of the record covering the case in which the person was convicted or forfeited bail, which shall be certified by the person required to prepare the abstract to be true and correct.

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

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

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

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

complete the drug court program, the abstract of the record shall be forwarded as provided in subsection B of this section.

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

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

2. The traffic citation number;

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

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

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

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

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

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

SECTION 7. 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.

Passed the House of Representatives the 2nd day of March, 2009.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2009.

_____
Presiding Officer of the Senate