

1 ENGROSSED SENATE
2 BILL NO. 2007

By: Barrington of the Senate

and

Nelson of the House

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7 An Act relating to motor vehicles; amending 47 O.S.
8 2001, Section 6-107.1, as amended by Section 12,
9 Chapter 61, O.S.L. 2006 (47 O.S. Supp. 2009, Section
10 6-107.1), which relates to cancellation or denial of
11 driving privileges; deleting time specific language;
12 establishing age-related language; amending 47 O.S.
13 2001, Sections 6-205.1 and 754.1, as last amended by
14 Sections 3 and 4, Chapter 388, O.S.L. 2009 (47 O.S.
15 Supp. 2009, Sections 6-205.1 and 754.1), which relate
16 to revocations; allowing for modification of driving
17 privileges for certain vehicle classification;
18 prohibiting modification after two or more
19 revocations; updating reference to certain revocation
20 procedures; amending 47 O.S. 2001, Section 761, as
21 amended by Section 4, Chapter 178, O.S.L. 2003 (47
22 O.S. Supp. 2009, Section 761) which relates to
23 operating a motor vehicle while impaired; deleting
24 certain modification procedure; allowing for
modification of certain vehicle classification; and
providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 6-107.1, as
amended by Section 12, Chapter 61, O.S.L. 2006 (47 O.S. Supp. 2009,
Section 6-107.1), is amended to read as follows:

Section 6-107.1 A. When any district court, municipal court of
record or any municipal court in a city or town in which the judge

1 is an attorney licensed to practice law in this state has determined
2 that a person under the age of eighteen (18) years has committed any
3 offense described in subsection C of this section, or that a person
4 eighteen (18), nineteen (19), or twenty (20) years of age has
5 committed an offense described in Section 11-906.4 of this title,
6 the court shall notify the Department of Public Safety on a form
7 prescribed by the Department as provided in Section 6-107.2 of this
8 title.

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

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

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

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

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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 sixteen (16) years
6 of age at the time of the determination, and the person will be less
7 than sixteen (16) years of age at the end of the period of
8 cancellation or denial, the Department shall extend the period of
9 cancellation or denial to the date the person attains sixteen (16)
10 years of age.

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

13 C. In addition to the administrative revocation of driving
14 privileges pursuant to Section 754 of this title, and the mandatory
15 revocation of driving privileges pursuant to Section 6-205.1 of this
16 title, this section applies to any crime, violation, infraction,
17 traffic offense or other offense involving or relating to the
18 possession, use, sale, purchase, transportation, distribution,
19 manufacture, or consumption of beer, alcohol, or any beverage
20 containing alcohol and to any crime, violation, infraction, traffic
21 offense or other offense involving or relating to the possession,
22 use, sale, purchase, transportation, distribution, manufacture,
23 trafficking, cultivation, consumption, ingestion, inhalation,
24 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 2. AMENDATORY 47 O.S. 2001, Section 6-205.1, as
7 last amended by Section 3, Chapter 388, O.S.L. 2009 (47 O.S. Supp.
8 2009, 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
24 shall be for a period of one (1) year if within ten (10) years

1 preceding the date of arrest relating thereto, as shown by the
2 records of the Department; provided, any modification under this
3 paragraph shall apply to Class D motor vehicles only:

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 may 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 may 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; provided, any modification under this
21 paragraph shall apply to Class D motor vehicles only:

22 a. two or more prior revocations commenced pursuant to
23 paragraph 2 or 6 of subsection A of Section 6-205 of
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1 this title, or to Section 753 or 754 of this title.

2 Such period 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 may be modified, or

11 c. any combination of two or more prior revocations or
12 convictions as described in subparagraphs a and b of
13 this paragraph. Such period may be modified.

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

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

1 2. A revocation shall be for a period of one (1) year if within
2 ten (10) years preceding the date of arrest relating thereto, as
3 shown by the 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 under Section 753 or 754 of this title. Such
7 period 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 or 6 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 shall be for a period of three (3) years if
17 within ten (10) years preceding the date of arrest relating thereto,
18 as shown by the records of the Department:

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

23 b. the record of the person reflects two or more prior
24 convictions in another jurisdiction which did not

1 result in a revocation of Oklahoma driving privileges,
2 for a violation substantially similar to paragraph 2
3 or 6 of subsection A of Section 6-205 of this title,
4 and the person was not a resident or licensee of
5 Oklahoma at the time of the offense resulting in the
6 conviction. Such period shall not be modified, or
7 c. any combination of two or more prior revocations as
8 described in subparagraphs a and b or this paragraph.
9 Such period shall not be modified.

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

20 C. For the purposes of this subsection:

21 1. The term "conviction" includes a juvenile delinquency
22 adjudication by a court or any notification from a court pursuant to
23 Section 6-107.1 of this title; and
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1 2. The term "revocation" includes a denial of driving
2 privileges by the Department.

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

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

12 SECTION 3. AMENDATORY 47 O.S. 2001, Section 754.1, as
13 last amended by Section 4, Chapter 388, O.S.L. 2009 (47 O.S. Supp.
14 2009, Section 754.1), is amended to read as follows:

15 Section 754.1 A. The Department of Public Safety, prior to an
16 administrative hearing for a revocation or denial arising under the
17 provisions of Sections 751 through 754 or Section 761 of this title
18 or under the provisions of Section 6-205.1 of this title, may modify
19 the revocation or denial when it is determined by the Department
20 that no other adequate means of transportation exists for the person
21 whose driving privilege has been revoked or denied; provided, any
22 modification under this paragraph shall apply to Class D motor
23 vehicles only.

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

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

17 2. When the person is employed by a relative who either is
18 within the first degree of consanguinity or who resides in the same
19 household.

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

22 C. Upon the issuance of a modification order pursuant to this
23 section or Section 755 of this title, or under the provisions of
24 paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of

1 subsection B of Section 6-205.1 of this title, for a violation of
2 this title, the person shall pay a modification fee of One Hundred
3 Seventy-five Dollars (\$175.00) to the Department. For each
4 modification fee collected pursuant to the provisions of this
5 subsection, One Hundred Dollars (\$100.00) shall be remitted to the
6 State Treasurer to be credited to the General Revenue Fund in the
7 State Treasury and Seventy-five Dollars (\$75.00) shall be remitted
8 to the State Treasurer to be credited to the Department of Public
9 Safety Revolving Fund. All monies accruing to the credit of the
10 Department of Public Safety Revolving Fund from modification fees
11 shall be budgeted and expended solely for the purpose of
12 administering the provisions of this section and Section 755 of this
13 title.

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

18 SECTION 4. AMENDATORY 47 O.S. 2001, Section 761, as
19 amended by Section 4, Chapter 178, O.S.L. 2003 (47 O.S. Supp. 2009,
20 Section 761), is amended to read as follows:

21 Section 761. A. Any person who operates a motor vehicle while
22 his ability to operate such motor vehicle is impaired by the
23 consumption of alcohol, or any other substance, other than alcohol,
24 which is capable of being ingested, inhaled, injected or absorbed

1 into the human body and is capable of adversely affecting the
2 central nervous system, vision, hearing or other sensory or motor
3 functions shall be subject to a fine of not less than One Hundred
4 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or
5 imprisonment in the county jail for not more than six (6) months, or
6 by both such fine and imprisonment.

7 B. Upon the receipt of any person's record of conviction of
8 driving while impaired, when such conviction has become final, the
9 Department of Public Safety shall suspend the driving privilege of
10 such person, as follows:

11 1. The first suspension shall be for thirty (30) days;

12 2. The second suspension shall be for a period of six (6)
13 months. ~~Such suspension shall not be subject to modification, which~~
14 may be modified; provided, any modification under this paragraph
15 shall apply to Class D motor vehicles only; and

16 3. The third or subsequent suspension shall be for twelve (12)
17 months. ~~Such suspension shall not be subject to modification, which~~
18 may be modified; provided, any modification under this paragraph
19 shall apply to Class D motor vehicles only.

20 Provided, however, the Department shall not suspend such
21 privilege pursuant to this subsection if said person's driving
22 privilege has been revoked based upon a test result or test refusal
23 pursuant to Section 753 or Section 754 of this title arising from
24 the same circumstances which resulted in the conviction.

1 C. The violations as set out in this section shall not be
2 bondable under Section 1115.3 of Title 22 of the Oklahoma Statutes.

3 D. Any person who is found guilty of a violation of the
4 provisions of this section or pleading guilty or nolo contendere for
5 a violation of any provision of this section shall be ordered to
6 participate in, prior to sentencing, an alcohol and drug assessment
7 and evaluation by an assessment agency or assessment personnel
8 certified by the Department of Mental Health and Substance Abuse
9 Services for the purpose of evaluating the receptivity to treatment
10 and prognosis of the person. The court shall order the person to
11 reimburse the agency or assessor for the assessment and evaluation.
12 The fee for an assessment and evaluation shall be the amount
13 provided in subsection C of Section 3-460 of Title 43A of the
14 Oklahoma Statutes. The evaluation shall be conducted at a certified
15 assessment agency, the office of a certified assessor or at another
16 location as ordered by the court. The agency or assessor shall,
17 within seventy-two (72) hours from the time the person is assessed,
18 submit a written report to the court for the purpose of assisting
19 the court in its final sentencing determination. If such report
20 indicates that the evaluation shows that the defendant would benefit
21 from a ten-hour or twenty-four-hour alcohol and drug substance abuse
22 course or a treatment program or both, the court shall, as a
23 condition of any sentence imposed, including a deferred sentence and
24 a suspended sentence, require the person to follow all

1 recommendations identified by the assessment and evaluation and
2 ordered by the court. No person, agency or facility operating an
3 alcohol and drug substance abuse evaluation program certified by the
4 Department of Mental Health and Substance Abuse Services shall
5 solicit or refer any person evaluated pursuant to this section for
6 any treatment program or alcohol and drug substance abuse service in
7 which such person, agency or facility has a vested interest;
8 however, this provision shall not be construed to prohibit the court
9 from ordering participation in or any person from voluntarily
10 utilizing a treatment program or alcohol and drug substance abuse
11 service offered by such person, agency or facility. Any evaluation
12 report submitted to the court pursuant to this subsection shall be
13 handled in a manner which will keep such report confidential from
14 the general public's review. Nothing contained in this subsection
15 shall be construed to prohibit the court from ordering judgment and
16 sentence and any other sanction authorized by law for failure or
17 refusal to comply with an order of the court.

18 SECTION 5. This act shall become effective November 1, 2010.
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