

THE HOUSE OF REPRESENTATIVES
Wednesday, February 25, 2009

Committee Substitute for
House Bill No. 1645

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1645 - By: ROUSSELOT AND DUNCAN 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:

1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 1115.1, as amended by
2 Section 3, Chapter 204, O.S.L. 2006 (22 O.S. Supp. 2008, Section 1115.1), is amended to
3 read as follows:

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

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

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

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

16 4. The violation does not constitute:

17 a. a felony, ~~or~~

18 b. negligent homicide, ~~or~~

- 1 c. driving or being in actual physical control of a motor vehicle while
2 impaired or under the influence of alcohol or other intoxicating
3 substances, ~~unless the~~; provided, any person who is unconscious or
4 injured and who requires immediate medical treatment as determined
5 by a treating physician may be released on the person's own
6 recognizance for medical reasons by the arresting officer, as prescribed
7 in subsection D of Section 751 of Title 47 of the Oklahoma Statutes.
8 The arresting officer who releases an arrested person on personal
9 recognizance pursuant to this subparagraph shall indicate the release
10 on the face of the citation. Any person released on his or her own
11 recognizance pursuant to this subparagraph shall remain at liberty
12 pending the filing of charges, or
- 13 d. eluding or attempting to elude a law enforcement officer, or
- 14 e. operating a motor vehicle without having been issued a valid driver
15 license, or while the driving privilege and driver license is under
16 suspension, revocation, denial or cancellation; provided, if the
17 arresting law enforcement officer, for good cause or because in the
18 judgment of the arresting officer extraordinary circumstances exist
19 which are beyond the control of the officer, may release the person on
20 personal recognizance. The arresting officer who releases an arrested
21 person on personal recognizance pursuant to this subparagraph shall
22 indicate the release on the face of the citation. Any person released on

1 driver license of the arrested person in this state, or may result in suspension of driving
2 privileges in the ~~nonresident's~~ home state of the nonresident pursuant to the
3 Nonresident Violator Compact.

4 C. The court, or the court clerk as directed by the court, may continue or reschedule
5 the date and time of arraignment at the discretion of the court or upon request of the
6 arrested person or the attorney for that person. If the arraignment is continued or
7 rescheduled, the arrested person shall remain on personal recognizance and written
8 promise to appear until such arraignment, in the same manner and with the same
9 consequences as if the continued or rescheduled arraignment was entered on the citation
10 by the arresting officer and signed by the defendant. An arraignment may be continued
11 or rescheduled more than one time. Provided, however, the court shall require an
12 arraignment to be had within a reasonable time. It shall remain the duty of the
13 defendant to appear for arraignment unless the citation is satisfied as provided for in
14 subsection D of this section.

15 D. A defendant released upon personal recognizance may elect to enter a plea of
16 guilty or nolo contendere to the violation charged at any time before the defendant is
17 required to appear for arraignment by indicating such plea on the copy of the citation
18 furnished to the defendant or on a legible copy thereof, together with the date of the plea
19 and signature. The defendant shall be responsible for assuring full payment of the fine
20 and costs to the appropriate court clerk. Payment of the fine and costs may be made by
21 personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial
22 money order, or other form of payment approved by the court in an amount prescribed as

1 bail for the offense. Provided, however, the defendant shall not use currency for payment
2 by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for
3 in this subsection, such plea shall be accepted by the court and the amount of the fine
4 and costs shall be:

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

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

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

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

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

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

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

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

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

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

- 10 a. the defendant was arraigned, posted bail, paid a fine, was jailed, or
11 otherwise settled the case, ~~or~~
- 12 b. the defendant was not released upon personal recognizance upon a
13 signed written promise to appear as provided for in this section or if
14 released, was not permitted to remain on such personal recognizance
15 for arraignment, ~~or~~
- 16 c. the violation relates to parking or standing, or
- 17 d. a period of one hundred twenty (120) calendar days or more has
18 elapsed from the date the citation was issued by the arresting officer.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 G. The municipal or district court clerk shall maintain a record of each request for
2 driving privilege and driver license suspension submitted to the Department of Public
3 Safety pursuant to the provisions of this section. When the court or court clerk receives
4 appropriate bail or payment of the fine and costs, settles the citation, makes other
5 arrangements with the defendant, or otherwise closes the case, the court clerk shall
6 furnish proof thereof to such defendant, if the defendant personally appears, or shall
7 mail such proof by first class mail, postage prepaid, to the defendant at the address noted
8 on the citation or at such other address as is furnished by the defendant. Additionally,
9 the court or court clerk shall notify the home jurisdiction of the defendant as listed on the
10 citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall,
11 in all other cases, notify the Department, of the resolution of the case. The form of proof
12 and the procedures for notification shall be approved by the Department of Public Safety.
13 Provided, however, the failure of the court or court clerk's failure clerk to furnish such
14 proof or notice in the manner provided for in this subsection shall in no event create any
15 civil liability upon the court, the court clerk, the State of Oklahoma or any political
16 subdivision thereof, or any state department or agency or any employee thereof but
17 duplicate proof shall be furnished to the person entitled thereto upon request.

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

21 Section 1115.2 A. If a person arrested for a traffic violation is released upon
22 personal recognizance as provided for in Section 1115.1 of this title, but subsequently

1 posts bail and thereafter fails to timely appear as provided for by law, the court may
2 issue a warrant for the person's arrest and the case shall be processed as follows:

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

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

6 3. If for a violation filed in a municipal court of record, as provided for in Section
7 28-127 of Title 11 of the Oklahoma Statutes.

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

13 1. Placed in the custody of the appropriate municipal or county jailor or custodian,
14 to be held until a magistrate is available or bail is posted as provided for in Section
15 1115.3 of this title;

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

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

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

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

- 1 b. place any other traffic offender into custody:
- 2 (1) who is injured, disabled, or otherwise incapacitated, ~~or~~
- 3 (2) if custodial arrest may require impoundment of a vehicle
- 4 containing livestock, perishable cargo, or items requiring special
- 5 maintenance or care, or
- 6 (3) if extraordinary circumstances exist, which, in the judgment of
- 7 the arresting officer, custodial arrest should not be made.

8 In such cases, the arresting officer may designate the date and time on the citation by

9 which, or on which, the person shall appear or contact the court, as applicable to the

10 court, and release the person. If the person fails to appear without good cause shown,

11 the court may issue a warrant for the person's arrest.

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

- 13 a. create any duty on the part of the officer to release a person from
- 14 custody, ~~or~~
- 15 b. create any duty on the part of the officer to make any inquiry or
- 16 investigation relating to any condition which may justify release under
- 17 this subsection, or
- 18 c. create any liability upon any officer, or the state or any political
- 19 subdivision thereof, arising from the decision to release or not to
- 20 release such person from custody pursuant to the provisions of this
- 21 subsection.

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

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

- 7 a. suspend the ~~person's~~ privilege of the person to operate a motor vehicle
8 in this state; or
9 b. forward a request for suspension of the ~~person's~~ driving privilege ~~in~~ of
10 the person to the state which issued the license as provided by the
11 Nonresident Violator Compact.

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

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

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

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

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

- 10 a. making application therefore to the Department of Public Safety, ~~and~~
11 b. showing proof from the court or court clerk that the person has entered
12 an appearance in the case which was the basis for the suspension
13 action and was released by the court as provided for by the
14 Nonresident Violator Compact or consistent provisions, and
15 c. submitting with the application the fees, as provided for in Section 6-
16 212 of Title 47 of the Oklahoma Statutes. The fees shall be remitted to
17 the State Treasurer to be credited to the General Revenue Fund of the
18 State Treasury;

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

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

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

21 Section 6-111. A. 1. The Department of Public Safety shall, upon payment of the
22 required fee, issue to every applicant qualifying therefor a Class A, B, C or D driver

1 license or identification card as applied for, which license or card shall bear thereon a
2 distinguishing alphanumeric identification assigned to the licensee or cardholder, date of
3 issuance and date of expiration of the license or card, the full name, signature or
4 computerized signature, date of birth, residence address, sex, a color photograph or
5 computerized image of the licensee or cardholder and security features as determined by
6 the Department. The photograph or image shall clearly identify the licensee or
7 cardholder and shall depict a full front unobstructed view of the entire face head and
8 shoulders of the licensee or cardholder. Hats, head scarves, head garments, bandanas,
9 prescription or nonprescription glasses or sunglasses, masks or costumes that cover or
10 partially cover the head or shoulders are strictly prohibited and shall not be worn by the
11 licensee or cardholder when being photographed for a license or identification card.

12 When any person is issued both a driver license and an identification card, the
13 Department shall ensure the information on both the license and the card are the same,
14 unless otherwise provided by law.

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

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

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

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

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

19 B. The Department may issue a temporary permit to an applicant for a driver
20 license permitting such applicant to operate a motor vehicle while the Department is
21 completing its investigation and determination of all facts relative to such applicant's
22 privilege to receive a license. Such permit must be in the immediate possession of the

1 driver while operating a motor vehicle, and it shall be invalid when the applicant's driver
2 license has been issued or for good cause has been refused.

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

- 6 a. farm retail outlets and suppliers,
- 7 b. agri-chemical businesses,
- 8 c. custom harvesters, and
- 9 d. livestock feeders.

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

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

- 18 a. diesel fuel in quantities of one thousand (1,000) gallons or less,
- 19 b. liquid fertilizers in vehicles with total capacities of three thousand
20 (3,000) gallons or less, and
- 21 c. solid fertilizers that are not mixed with any organic substance.

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

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

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

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

15 4. Failure to comply with the requirements set forth in such notice shall result in
16 cancellation of the person's license or card. Such cancellation shall be in effect for one (1)
17 year, after which time the person may make application with the Department for a new
18 license or card bearing the words "Sex Offender". Continued use of a canceled license or
19 card shall constitute a misdemeanor and shall, upon conviction thereof, be punishable by
20 a fine of not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars
21 (\$200.00). When an individual is no longer required to register as a convicted sex
22 offender with the Department of Corrections pursuant to the provisions of the Sex

1 Offenders Registration Act, the individual shall be eligible to receive a driver license or
2 identification card which does not bear the words "Sex Offender".

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

8 SECTION 5. AMENDATORY 47 O.S. 2001, Section 6-205.2, as last amended
9 by Section 19, Chapter 311, O.S.L. 2006 (47 O.S. Supp. 2008, Section 6-205.2), is
10 amended to read as follows:

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

- 12 1. A nonvacated adjudication of guilt;
- 13 2. A determination that a person has violated or failed to comply with this section
14 in any court or by the Department of Public Safety following an administrative
15 determination;
- 16 3. A nonvacated forfeiture of bail or collateral deposited to secure a person's
17 appearance in court;
- 18 4. A plea of guilty or nolo contendere accepted by the court;
- 19 5. The payment of any fine or court costs; or
- 20 6. A violation of a condition of release without bail, regardless of whether or not the
21 penalty is rebated, suspended or probated.

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

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

9 2. Refusing to submit to a test for determination of alcohol concentration, as
10 required by Section 751 of this title, or as required by the state in which the arrest
11 occurred, while operating a Class A, B or C commercial motor vehicle, or if the person is
12 the holder of a commercial driver license, committing the offense while operating any
13 vehicle;

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

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

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

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

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

13 C. The Department of Public Safety shall disqualify any person from operating a
14 Class A, B or C commercial motor vehicle for a period of not less than three (3) years
15 upon receiving a record of conviction of any of the disqualifying offenses described in
16 subsection B of this section, committed in connection with the operation of a motor
17 vehicle which is required to be placarded for hazardous materials under 49 C.F.R., Part
18 172, subpart F, when the conviction has become final.

19 D. The Department of Public Safety shall disqualify any person from operating a
20 Class A, B or C commercial motor vehicle for life upon receiving a record of conviction in
21 any court of any of the disqualifying offenses described in subsection B of this section

1 after a former conviction of any of the following disqualifying offenses, when the second
2 conviction has become final.

3 The Department of Public Safety may promulgate rules establishing conditions
4 under which a disqualification for life pursuant to the provisions of this subsection may
5 be reduced to a period of not less than ten (10) years provided a previous lifetime
6 disqualification has not been reduced.

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

13 F. The Department of Public Safety shall disqualify any person from operating a
14 Class A, B or C commercial motor vehicle for sixty (60) days upon receiving a record of a
15 second conviction of the person for a serious traffic offense arising out of separate
16 transactions or occurrences within a three-year period, when the convictions have
17 become final. The Department of Public Safety shall disqualify any person from
18 operating a Class A, B or C commercial motor vehicle for one hundred twenty (120) days
19 upon receiving a record of a third conviction of a person for a serious traffic offense
20 arising out of separate transactions or occurrences within a three-year period, when the
21 convictions have become final; provided, the one-hundred-twenty-day period shall run in
22 addition to and shall not run concurrently with any other period disqualification imposed

1 pursuant to this subsection. As used in this subsection, "serious traffic offense" shall
2 mean any of the following offenses committed while operating a commercial motor
3 vehicle:

4 1. Speeding fifteen (15) miles per hour or more over the limit;

5 2. Reckless driving;

6 3. Any traffic offense committed that results in or in conjunction with a motor
7 vehicle collision resulting in a fatality;

8 4. Erratic or unsafe lane changes;

9 5. Following too ~~close~~ closely;

10 6. Failure to obtain a commercial driver license;

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

12 8. Failure to have:

13 a. the proper class of commercial driver license for the class of vehicle
14 being operated,

15 b. the proper endorsement or endorsements for the type of vehicle being
16 operated, including but not limited to, passengers or type of cargo
17 being transported, or

18 c. both proper class and proper endorsement, as provided in
19 subparagraphs a and b of this paragraph.

20 G. Upon the receipt of a person's record of conviction of violating a lawful out-of-
21 service order, ~~except as provided in subsection H of this section~~, when the conviction

1 becomes final, the Department shall disqualify the driving privilege of the person as
2 follows:

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

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

7 b. while transporting hazardous materials required to be placarded under
8 the Hazardous Materials Transportation Act (49 P. app. 1801-1813), or
9 while operating a motor vehicle designed for transport of sixteen or
10 more passengers, including the driver, the period of disqualification
11 shall be for one (1) year;

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

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

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

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

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

10 1. ~~The first conviction shall result in a one-year disqualification; and~~

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

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

16 J. L. Any person who drives a Class A, B or C commercial motor vehicle on any
17 public roads, streets, highways, turnpikes or any other public place of this state at a time
18 when the person has been disqualified or when the privilege to do so is canceled, denied,
19 suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be
20 punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than
21 Five Hundred Dollars (\$500.00), or by imprisonment for not more than one (1) year, or by

1 both such fine and imprisonment. Each act of driving as prohibited shall constitute a
2 separate offense.

3 ~~K.~~ J. Upon the receipt of the record of a conviction of a person of a railroad highway
4 grade crossing offense in a commercial motor vehicle, pursuant to Sections 11-701 or 11-
5 702 of this title or Section 11-1115 of this title, or upon receipt of an equivalent conviction
6 from any state, when the conviction becomes final, the Department shall disqualify the
7 driving privileges of the person convicted as follows:

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

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

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

13 ~~L.~~ K. The Department, upon receipt of a written notice of immediate
14 disqualification issued by the Federal Motor Carrier Safety Administration under 49
15 CFR 383.52, shall immediately disqualify the person's commercial driving privilege for
16 the period of time specified on the written notice.

17 ~~M.~~ L. The periods of disqualification as defined by this section shall not be
18 modified. A person may not be granted driving privileges to operate a Class A, B or C
19 commercial vehicle until the disqualification is reinstated.

20 M. When a person makes application for an Oklahoma Class A, B, or C commercial
21 driver license, the Department shall review the prior driving record of the person in

1 other states for the immediately preceding ten (10) years, unless the record review has
2 already been performed. If the Department finds that:

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

6 2. The person has not been previously disqualified in the jurisdiction where the
7 conviction occurred or any subsequent state prior to making application for an Oklahoma
8 Class A, B, or C commercial driver license,
9 the Department shall disqualify the commercial driving privileges as if the violation had
10 originally occurred in Oklahoma.

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

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

20 SECTION 6. AMENDATORY 47 O.S. 2001, Section 18-101, as last amended by
21 Section 31, Chapter 16, O.S.L. 2006 (47 O.S. Supp. 2008, Section 18-101), is amended to
22 read as follows:

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

9 B. Within ten (10) days after:

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

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

13 3. The forfeiture of bail of a person;

14 upon a charge of violating any law regulating the operation of vehicles on highways every
15 magistrate of the court or clerk of the court of record, in which the conviction was had or
16 bail was forfeited, shall prepare and immediately forward to the Department of Public
17 Safety an abstract of the record covering the case in which the person was convicted or
18 forfeited bail, which shall be certified by the person required to prepare the abstract to be
19 true and correct.

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

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

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

9 3. Involving a felony drug offense for which the offender is eligible for participation
10 in an approved drug court program; provided, if the offender is the holder of a Class A, B,
11 or C commercial driver license or the offense occurred while the offender was operating a
12 commercial motor vehicle, then the conviction shall be reported to the Department of
13 Public Safety, notwithstanding participation, or eligibility to participate, in an approved
14 drug court program. However, if the offender does not successfully complete the drug
15 court program, the abstract of the record shall be forwarded as provided in subsection B
16 of this section.

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

- 19 1. The name, address, sex, and date of birth of the person charged;
- 20 2. The traffic citation number;
- 21 3. The driver license number, if any, of the person charged, and the state or

22 jurisdiction from which the license is issued;

- 1 4. The license plate number, make, and model of the vehicle involved;
- 2 5. The nature and date of the offense, the date of hearing, the plea, the judgment,
- 3 or, if bail was forfeited, the amount of the fine or forfeiture; and
- 4 6. The name of the court and whether it is a municipal or district court.
- 5 E. Every court of record shall also forward a like report to the Department upon the
- 6 conviction of any person of manslaughter or other felony in the commission of which a
- 7 vehicle was used.
- 8 F. The failure, refusal or neglect of any judicial officer to comply with any of the
- 9 requirements of this section shall constitute misconduct in office and shall be ground for
- 10 removal.

11 SECTION 7. It being immediately necessary for the preservation of the public

12 peace, health and safety, an emergency is hereby declared to exist, by reason whereof

13 this act shall take effect and be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-24-09 - DO PASS,

15 As Amended and Coauthored.