

3 Senate Bill No. 2007

4 SENATE BILL NO. 2007 - By: Barrington of the Senate and Nelson of
5 the House.

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

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

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

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

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

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

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

14 2. For a period of one (1) year for a second 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 3. For a period of two (2) years for a third or subsequent
18 offense, ~~from the date of the offense or from the date the person~~
19 ~~reaches sixteen (16) years of age, whichever period of time is~~
20 ~~longer; or~~

21 4. In the discretion of the court, until the person attains
22 twenty-one (21) years of age, if that period of time would be longer

1 than the period of time provided in paragraph 1, 2 or 3 of this
2 subsection.

3 Provided, however, if the person is less than sixteen (16) years
4 of age at the time of the determination, and the person will be less
5 than sixteen (16) years of age at the end of the period of
6 cancellation or denial, the Department shall extend the period of
7 cancellation or denial to the date the person attains sixteen (16)
8 years of age.

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

11 C. In addition to the administrative revocation of driving
12 privileges pursuant to Section 754 of this title, and the mandatory
13 revocation of driving privileges pursuant to Section 6-205.1 of this
14 title, this section applies to any crime, violation, infraction,
15 traffic offense or other offense involving or relating to the
16 possession, use, sale, purchase, transportation, distribution,
17 manufacture, or consumption of beer, alcohol, or any beverage
18 containing alcohol and to any crime, violation, infraction, traffic
19 offense or other offense involving or relating to the possession,
20 use, sale, purchase, transportation, distribution, manufacture,
21 trafficking, cultivation, consumption, ingestion, inhalation,
22 injection, or absorption of any controlled dangerous substance as
23 defined by paragraph 8 of Section 2-101 of Title 63 of the Oklahoma

1 Statutes or any substance which is capable of being ingested,
2 inhaled, injected, or absorbed into the human body and is capable of
3 adversely affecting the central nervous system, vision, hearing, or
4 other sensory or motor functions.

5 SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-205.1, as
6 last amended by Section 3, Chapter 388, O.S.L. 2009 (47 O.S. Supp.
7 2009, Section 6-205.1), is amended to read as follows:

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

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

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

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

1 further, any modification under this paragraph shall apply to Class
2 D motor vehicles only;

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

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

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

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

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

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

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

1 C. For the purposes of this subsection:

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

5 2. The term "revocation" includes a denial of driving
6 privileges by the Department.

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

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

16 SECTION 3. AMENDATORY 47 O.S. 2001, Section 754.1, as
17 last amended by Section 4, Chapter 388, O.S.L. 2009 (47 O.S. Supp.
18 2009, Section 754.1), is amended to read as follows:

19 Section 754.1 A. The Department of Public Safety, prior to an
20 administrative hearing for a revocation or denial arising under the
21 provisions of Sections 751 through 754 or Section 761 of this title
22 or under the provisions of Section 6-205.1 of this title, may modify
23 the revocation or denial when it is determined by the Department

1 that no other adequate means of transportation exists for the person
2 whose driving privilege has been revoked or denied; provided, any
3 modification under this paragraph shall apply to Class D motor
4 vehicles only.

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

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

21 2. When the person is employed by a relative who either is
22 within the first degree of consanguinity or who resides in the same
23 household.

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

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

19 D. The Board of Tests for Alcohol and Drug Influence shall
20 promulgate such rules as are necessary to implement and administer
21 the provisions of this subsection relating to ignition interlock
22 devices and the providers of such devices.

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

4 Section 761. A. Any person who operates a motor vehicle while
5 his ability to operate such motor vehicle is impaired by the
6 consumption of alcohol, or any other substance, other than alcohol,
7 which is capable of being ingested, inhaled, injected or absorbed
8 into the human body and is capable of adversely affecting the
9 central nervous system, vision, hearing or other sensory or motor
10 functions shall be subject to a fine of not less than One Hundred
11 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or
12 imprisonment in the county jail for not more than six (6) months, or
13 by both such fine and imprisonment.

14 B. Upon the receipt of any person's record of conviction of
15 driving while impaired, when such conviction has become final, the
16 Department of Public Safety shall suspend the driving privilege of
17 such person, as follows:

- 18 1. The first suspension shall be for thirty (30) days;
19 2. The second suspension shall be for a period of six (6)
20 months. ~~Such suspension shall not be subject to modification, which~~
21 may be modified; provided, any modification under this paragraph
22 shall apply to Class D motor vehicles only; and

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

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

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

12 D. Any person who is found guilty of a violation of the
13 provisions of this section or pleading guilty or nolo contendere for
14 a violation of any provision of this section shall be ordered to
15 participate in, prior to sentencing, an alcohol and drug assessment
16 and evaluation by an assessment agency or assessment personnel
17 certified by the Department of Mental Health and Substance Abuse
18 Services for the purpose of evaluating the receptivity to treatment
19 and prognosis of the person. The court shall order the person to
20 reimburse the agency or assessor for the assessment and evaluation.
21 The fee for an assessment and evaluation shall be the amount
22 provided in subsection C of Section 3-460 of Title 43A of the
23 Oklahoma Statutes. The evaluation shall be conducted at a certified

1 assessment agency, the office of a certified assessor or at another
2 location as ordered by the court. The agency or assessor shall,
3 within seventy-two (72) hours from the time the person is assessed,
4 submit a written report to the court for the purpose of assisting
5 the court in its final sentencing determination. If such report
6 indicates that the evaluation shows that the defendant would benefit
7 from a ten-hour or twenty-four-hour alcohol and drug substance abuse
8 course or a treatment program or both, the court shall, as a
9 condition of any sentence imposed, including a deferred sentence and
10 a suspended sentence, require the person to follow all
11 recommendations identified by the assessment and evaluation and
12 ordered by the court. No person, agency or facility operating an
13 alcohol and drug substance abuse evaluation program certified by the
14 Department of Mental Health and Substance Abuse Services shall
15 solicit or refer any person evaluated pursuant to this section for
16 any treatment program or alcohol and drug substance abuse service in
17 which such person, agency or facility has a vested interest;
18 however, this provision shall not be construed to prohibit the court
19 from ordering participation in or any person from voluntarily
20 utilizing a treatment program or alcohol and drug substance abuse
21 service offered by such person, agency or facility. Any evaluation
22 report submitted to the court pursuant to this subsection shall be
23 handled in a manner which will keep such report confidential from

1 the general public's review. Nothing contained in this subsection
2 shall be construed to prohibit the court from ordering judgment and
3 sentence and any other sanction authorized by law for failure or
4 refusal to comply with an order of the court.

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

6 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY & HOMELAND SECURITY,
7 dated 2-16-10 - DO PASS, As Coauthored.