

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2046

By: Morgan

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5  
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.  
8 2001, Section 6-105, as last amended by Section 1,  
9 Chapter 83, O.S.L. 2008 (47 O.S. Supp. 2008, Section  
10 6-105), which relates to graduated driver licenses;  
11 modifying certain graduated driver license  
12 qualifications; amending Section 3, Chapter 108,  
13 O.S.L. 2003 (47 O.S. Supp. 2008, Section 11-901b),  
14 which relates to distracted driving; prohibiting use  
15 of certain devices by certain operators of motor  
16 vehicles; providing presumption under certain  
17 circumstances; providing exceptions; providing  
18 penalty; authorizing municipalities to enact certain  
19 ordinances; providing definitions; and providing an  
20 effective date.

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

22 SECTION 1. AMENDATORY 47 O.S. 2001, Section 6-105, as  
23 last amended by Section 1, Chapter 83, O.S.L. 2008 (47 O.S. Supp.  
24 2008, Section 6-105), is amended to read as follows:

Section 6-105. A. Unless a legal custodial parent or legal  
guardian has filed an objection to licensure pursuant to Section 6-  
103.1 of this title, any person under eighteen (18) years of age who  
is in compliance with or not subject to Section 6-107.3 of this  
title may be permitted to operate:

1           1. A Class D motor vehicle under the graduated driver license  
2 provisions prescribed in subsections B through E of this section;

3           2. A motorcycle under the provisions prescribed in subsection H  
4 of this section; or

5           3. A farm vehicle under the provisions prescribed in subsection  
6 I of this section.

7           B. Any person who is at least fifteen (15) years of age may  
8 drive during a session in which the driver is being instructed in a  
9 driver education course, as set out in subparagraphs a, b, c and d  
10 of paragraph 1 of subsection C of this section, by a certified  
11 driver education instructor who is seated in the right front seat of  
12 the motor vehicle.

13           C. Any person:

14           1. Who is at least fifteen and one-half (15 1/2) years of age  
15 and is currently receiving instruction in or has successfully  
16 completed driver education. For purposes of this section, the term  
17 "driver education" shall mean:

18           a. a prescribed secondary school driver education course,  
19 as provided for in Sections 19-113 through 19-121 of  
20 Title 70 of the Oklahoma Statutes,

21           b. a driver education course, certified by the Department  
22 of Public Safety, from a parochial, private, or other  
23 nonpublic secondary school,

24

1 c. a commercial driver training course, as defined by  
2 Sections 801 through 808 of this title, or

3 d. a parent-taught driver education course, certified by  
4 the Department of Public Safety. The Department shall  
5 promulgate rules for any parent-taught driver  
6 education course; or

7 2. Who is at least sixteen (16) years of age,  
8 may, upon successfully passing all parts of the driver license  
9 examination administered by the Department except the driving  
10 examination, be issued a learner permit which will grant the  
11 permittee the privilege to operate a Class D motor vehicle upon the  
12 public highways while accompanied by a licensed driver who is at  
13 least twenty-one (21) years of age and who is actually occupying a  
14 seat beside the permittee.

15 D. 1. Any person:

16 a. who has applied for, been issued, and has possessed a  
17 learner permit for a minimum of six (6) months, and

18 b. whose custodial legal parent or legal guardian  
19 certifies to the Department by sworn affidavit that  
20 the person has received a minimum of forty (40) hours  
21 of actual behind-the-wheel training, of which at least  
22 ten (10) hours of such training was at night, from a  
23 licensed driver who was at least twenty-one (21) years  
24

1 of age and who was properly licensed to operate a  
2 Class D motor vehicle for a minimum of two (2) years,  
3 may be issued an intermediate Class D license upon successfully  
4 passing all parts of the driver license examinations administered by  
5 the Department. However, notwithstanding the date of issuance of  
6 the learner permit, if the person has been convicted of a violation  
7 of subsection B of Section 11-901b of this title or a traffic  
8 offense which is reported on the driving record of that person, the  
9 time period specified in subparagraph a of this paragraph ~~1 of this~~  
10 ~~subsection~~ shall be recalculated to begin from the date of  
11 conviction for the traffic offense, and must elapse before that  
12 person may be issued an intermediate Class D license. If the person  
13 has been convicted of more than one violation of subsection B of  
14 Section 11-901b of this title or more than one traffic offense which  
15 is reported on the driving record of that person, the time period  
16 specified in subparagraph a of this paragraph ~~1 of this subsection~~  
17 shall be recalculated to begin from the most recent date of  
18 conviction, and must elapse before that person may be issued an  
19 intermediate Class D license.

20 2. A person who has been issued an intermediate Class D license  
21 under the provisions of this subsection:

22 a. shall be granted the privilege to operate a Class D  
23 motor vehicle upon the public highways:  
24

1 (1) only between the hours of 5:00 a.m. and 11:00  
2 p.m., except for driving to and from work,  
3 school, school activities, and church activities,  
4 or

5 (2) at any time, if a licensed driver who is at least  
6 twenty-one (21) years of age is actually  
7 occupying a seat beside the intermediate Class D  
8 licensee, or if the intermediate Class D licensee  
9 is a farm or ranch resident, and is operating a  
10 motor vehicle while engaged in farming or  
11 ranching operations outside the limits of a  
12 municipality, or driving to and from work,  
13 school, school activities, or church activities,  
14 and

15 b. shall not operate a motor vehicle with more than one  
16 passenger unless:

17 (1) all passengers live in the same household as the  
18 custodial legal parent or legal guardian, or

19 (2) a licensed driver at least twenty-one (21) years  
20 of age is actually occupying a seat beside the  
21 intermediate Class D licensee.

22 E. Any person who has been issued an intermediate Class D  
23 license for a minimum of:

24 1. One (1) year; or

1           2. Six (6) months, if the person has completed both the driver  
2 education and the parent-certified behind-the-wheel training  
3 provisions of subparagraph e d of paragraph 1 of subsection D C of  
4 this section;  
5 may be issued a Class D license. However, notwithstanding the date  
6 of issuance of the Class D license, if the person has been convicted  
7 of a violation of subsection B of Section 11-901b of this title or a  
8 traffic offense which is reported on the driving record of that  
9 person, the time periods specified in ~~paragraphs~~ paragraph 1 or 2 of  
10 this subsection, as applicable, ~~of this subsection~~ shall be  
11 recalculated to begin from the date of conviction for the traffic  
12 offense, and must elapse before that person may be issued a Class D  
13 license. If the person has been convicted of more than one  
14 violation of subsection B of Section 11-901b of this title or more  
15 than one traffic offense which is reported on the driving record of  
16 that person, the time periods specified in ~~paragraphs~~ paragraph 1 or  
17 2 of this subsection, as applicable, ~~of this subsection~~ shall be  
18 recalculated to begin from the most recent date of conviction, and  
19 must elapse before that person may be issued a Class D license.

20           F. Learner permits and intermediate Class D licenses shall be  
21 issued for the same period as all other driver licenses. The  
22 licenses may be suspended or canceled at the discretion of the  
23 Department for violation of restrictions, for failing to give the  
24 required or correct information on the application, for knowingly

1 giving false or inaccurate information on the application or any  
2 subsequent documentation related to the granting of driving  
3 privileges, or for violation of any traffic laws of this state  
4 pertaining to the operation of a motor vehicle.

5 G. The Department of Public Safety shall promulgate rules  
6 establishing procedures for removal of learner permit and  
7 intermediate Class D license restrictions from the permit or license  
8 upon the permittee or licensee qualifying for a less restricted or  
9 an unrestricted license.

10 H. Any person fourteen (14) years of age or older may apply for  
11 a restricted Class D license with a motorcycle-only restriction.  
12 After the person has successfully passed all parts of the motorcycle  
13 examination other than the driving examination and has met all  
14 requirements provided for in the rules of the Department, the  
15 Department shall issue to the person a restricted Class D license  
16 with a motorcycle-only restriction which shall grant to the person,  
17 while having the license in the person's immediate possession, the  
18 privilege to operate a motorcycle or motor-driven cycle:

- 19 1. With a piston displacement not to exceed two hundred fifty  
20 (250) cubic centimeters;
- 21 2. Between the hours of 4:30 a.m. to 9:00 p.m. only;
- 22 3. While wearing approved protective headgear; and
- 23 4. While accompanied by and receiving instruction from any  
24 person who is at least twenty-one (21) years of age and who is

1 properly licensed pursuant to the laws of this state to operate a  
2 motorcycle or motor-driven cycle, and who has visual contact with  
3 the restricted licensee.

4 The restricted licensee may apply on or after thirty (30) days  
5 from date of issuance of the restricted Class D license with a  
6 motorcycle-only restriction to have the restriction of being  
7 accompanied by a licensed driver removed by successfully completing  
8 the driving portion of an examination.

9 I. The Department may in its discretion issue a special permit  
10 to any person who has attained the age of fourteen (14) years,  
11 authorizing such person to operate farm vehicles between the farm  
12 and the market to haul commodities grown on the farm; provided, that  
13 the special permit shall be temporary and shall expire not more than  
14 thirty (30) days after the issuance of the special permit. Special  
15 permits shall be issued only to farm residents and shall be issued  
16 only during the time of the harvest of the principal crops grown on  
17 such farm. Provided, however, the Department shall not issue a  
18 special permit pursuant to this subsection until the Department is  
19 fully satisfied after the examination of the application and other  
20 evidence furnished in support thereof, that the person is physically  
21 and mentally developed to such a degree that the operation of a  
22 motor vehicle by the person would not be inimical to public safety.

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1 SECTION 2. AMENDATORY Section 3, Chapter 108, O.S.L.  
2 2003 (47 O.S. Supp. 2008, Section 11-901b), is amended to read as  
3 follows:

4 Section 11-901b. A. The operator of every vehicle, while  
5 driving, shall devote their full time and attention to such driving.

6 No law enforcement officer shall issue a citation under this  
7 ~~section~~ subsection unless the operator of the vehicle is involved in  
8 an accident.

9 B. Any person who:

10 1. Has been issued a learner permit or intermediate class D  
11 license; and

12 2. Is under the age of eighteen (18) years,  
13 shall not operate a motor vehicle on a street or highway while using  
14 a cellular telephone or electronic communication device while the  
15 motor vehicle is in motion. An operator of a motor vehicle who  
16 holds a cellular telephone to, or in the immediate proximity of, the  
17 ear of the operator while the motor vehicle is in motion is presumed  
18 to be engaging in a call.

19 C. Subsection B of this section shall not apply to any of the  
20 following:

21 1. A person who believes to be in physical danger if that  
22 person is the only adult in the motor vehicle; or

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1       2. The use of a cellular telephone for the sole purpose of  
2 communicating with any of the following regarding an emergency  
3 situation:

4           a. an emergency response operator, or

5           b. a law enforcement agency.

6       D. Any person who violates the provisions of subsection B of  
7 this section shall, upon conviction, be subject to a fine of not  
8 more than Twenty-five Dollars (\$25.00).

9       E. Municipalities may enact and municipal police officers may  
10 enforce ordinances prohibiting and penalizing conduct under the  
11 provisions of this section, but the provisions of those ordinances  
12 shall be the same as provided for in this section, and the  
13 enforcement provisions of said ordinances shall not be more  
14 stringent than those provided for in this section.

15       F. As used in this section:

16       1. "Cellular telephone" means an analog or digital wireless  
17 telephone authorized by the Federal Communications Commission to  
18 operate in the frequency bandwidth reserved for cellular telephones;

19       2. "Electronic communication device" means an electronic device  
20 that permits the user to transmit a communication of written text by  
21 means other than through an oral transfer or wire communication.

22 This term does not include a voice-activated global positioning or  
23 navigation system that is permanently affixed to a motor vehicle;

1       3. "Engaging in a call" means talking into or listening on a  
2 handheld cellular telephone, but does not include holding a cellular  
3 telephone to activate, deactivate, or initiate a function of the  
4 cellular telephone;

5       4. "Immediate proximity" means the distance that permits the  
6 user of a cellular telephone to hear telecommunications transmitted  
7 over the cellular telephone but that does not require physical  
8 contact with the ear of the user; and

9       5. "Using a cellular telephone or electronic communication  
10 device" means:

11           a. holding a cellular telephone to, or in the immediate  
12           proximity of, the ear of the user, or

13           b. pressing the buttons on a cellular telephone to use  
14           any of the functions of the cellular telephone.

15       SECTION 3. This act shall become effective November 1, 2009.

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17       52-1-5173           GRS       12/08/08