

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1185

By: Barrington

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2001, Sections 6-205.1, as last amended by Section
9 11, Chapter 326, O.S.L. 2007, Section 1, Chapter 167,
10 O.S.L. 2005, as amended by Section 18, Chapter 394,
11 O.S.L. 2005, 6-303, as last amended by Section 13,
12 Chapter 326, O.S.L. 2007, 754.1, as last amended by
13 Section 17, Chapter 394, O.S.L. 2005, and 1112 (47
14 O.S. Supp. 2008, Sections 6-205.1, 6-212.3, 6-303 and
15 754.1), which relate to ignition interlock devices;
16 modifying revocation period; modifying period of
17 installation; establishing certain penalties;
18 requiring certain action; clarifying description; and
19 providing an effective date.

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

21 SECTION 1. AMENDATORY 47 O.S. 2001, Section 6-205.1, as
22 last amended by Section 11, Chapter 326, O.S.L. 2007 (47 O.S. Supp.
23 2008, Section 6-205.1), is amended to read as follows:

24 Section 6-205.1. A. The driving privilege of a person who is
convicted of any offense as provided in paragraph 2 or 6 of
subsection A of Section 6-205 of this title, ~~or a person who has~~
~~refused to submit to a test or tests as provided in Section 753 of~~
~~this title,~~ or a person whose alcohol concentration is subject to

1 the provisions of Section 754 of this title, shall be revoked or
2 denied by the Department of Public Safety for the following period,
3 as applicable:

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

9 2. A revocation pursuant to paragraph 2 of subsection A of
10 Section 6-205 of this title, or ~~to~~ Section 753 ~~or~~ 754 of this title
11 shall be for a period of one (1) year if within ten (10) years
12 preceding the date of arrest relating thereto, as shown by the
13 records of the Department:

14 a. a prior revocation commenced pursuant to paragraph 2
15 or 6 of subsection A of Section 6-205 of this title,
16 or ~~to~~ Section 753 ~~or~~ 754 of this title. Such period
17 ~~shall not~~ may be modified after a revocation period of
18 forty-five (45) days of the period has expired, or

19 b. the record of the person reflects a prior conviction
20 in another jurisdiction which did not result in a
21 revocation of Oklahoma driving privileges, for a
22 violation substantially similar to paragraph 2 of
23 subsection A of Section 6-205 of this title, and the
24 person was not a resident or a licensee of Oklahoma at

1 the time of the offense resulting in the conviction.
2 Such period ~~shall not~~ may be modified after a
3 revocation period of forty-five (45) days of the
4 period has expired; or

5 3. A revocation pursuant to paragraph 2 of subsection A of
6 Section 6-205 of this title, ~~or to~~ Section 753 ~~or~~ 754 of this title
7 shall be for a period of three (3) years if within ten (10) years
8 preceding the date of arrest relating thereto, as shown by the
9 records of the Department:

10 a. two or more prior revocations commenced pursuant to
11 paragraph 2 or 6 of subsection A of Section 6-205 of
12 this title, ~~or to~~ Section 753 ~~or~~ 754 of this title.
13 Such period ~~shall not~~ may be modified after a
14 revocation period of forty-five (45) days of the
15 period has expired, or

16 b. the record of the person reflects two or more prior
17 convictions in another jurisdiction which did not
18 result in a revocation of Oklahoma driving privileges,
19 for a violation substantially similar to paragraph 2
20 of subsection A of Section 6-205 of this title, and
21 the person was not a resident or a licensee of
22 Oklahoma at the time of the offense resulting in the
23 conviction. Such period ~~shall not~~ may be modified
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1 after a revocation period of forty-five (45) days of
2 the period has expired.

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

7 1. The first license revocation shall be for one hundred eighty
8 (180) days, which may be modified; provided, for license revocations
9 for a misdemeanor charge of possessing a controlled dangerous
10 substance, the provisions of this paragraph shall apply to any such
11 revocations by the Department on or after January 1, 1993; provided
12 further, any modification under this paragraph shall apply to Class
13 D motor vehicles only;

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

17 a. a prior revocation commenced pursuant to paragraph 2
18 or 6 of subsection A of Section 6-205 of this title,
19 or under Section ~~753~~ or 754 of this title. Such
20 period shall not be modified, or

21 b. the record of the person reflects a prior conviction
22 in another jurisdiction which did not result in a
23 revocation of Oklahoma driving privileges, for a
24 violation substantially similar to paragraph 2 or 6 of

1 subsection A of Section 6-205 of this title, and the
2 person was not a resident or a licensee of Oklahoma at
3 the time of the offense resulting in the conviction.

4 Such period shall not be modified; or

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

8 a. two or more prior revocations commenced pursuant to
9 paragraph 2 or 6 of subsection A of Section 6-205 of
10 this title, or under Section ~~753~~ or 754 of this title.

11 Such period shall not be modified, or

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

20 The revocation of the driving privilege of any person under this
21 subsection shall not run concurrently with any other withdrawal of
22 driving privilege resulting from a different incident and which
23 requires the driving privilege to be withdrawn for a prescribed
24 amount of time. A denial based on a conviction of any offense as

1 provided in paragraph 6 of subsection A of Section 6-205 of this
2 title shall become effective on the first day the convicted person
3 is otherwise eligible to apply for and be granted driving privilege
4 if the person was not eligible to do so at the time of the
5 conviction.

6 C. For the purposes of this subsection:

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

10 2. The term "revocation" includes a denial of driving
11 privileges by the Department.

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

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

21 F. The revocation of driving privileges for any person who has
22 refused to submit to testing of his or her blood or breath as
23 provided for in Section 753 of this title shall be revoked or denied

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1 by the Department of Public Safety for double the period of
2 revocation pursuant to subsection A of this section.

3 SECTION 2. AMENDATORY Section 1, Chapter 167, O.S.L.
4 2005, as amended by Section 18, Chapter 394, O.S.L. 2005 (47 O.S.
5 Supp. 2008, Section 6-212.3), is amended to read as follows:

6 Section 6-212.3 A. Whenever the records of the Department of
7 Public Safety reflect:

8 1. A second or subsequent conviction of a person for driving
9 under the influence of alcohol or the combination of alcohol and any
10 other intoxicating substance within five (5) years of a previous
11 conviction for the same offense; or

12 2. A person is classified as an excessive user of alcohol or of
13 a combination of alcohol and any other intoxicating substance, and
14 inimical to public safety, in accordance with rules promulgated by
15 the Department, the person shall, upon request for reinstatement of
16 driving privileges from revocation or suspension based upon the
17 conviction or the status as an excessive user, provide proof of
18 installation of an ignition interlock device approved by the Board
19 of Tests for Alcohol and Drug Influence, at the person's own
20 expense, upon every motor vehicle operated by the person.

21 B. The Department shall require, as a condition of
22 reinstatement, the device to be installed upon any vehicle owned or
23 leased, as reflected on the vehicle registration, by an employer of
24 the person for use by the person, except when the employer requests

1 the ignition interlock device not be installed. The request shall
2 be in writing and notarized on the official letterhead of the
3 employer and provided by the person to the Department; provided, a
4 request shall not be accepted by the Department under the following
5 circumstances:

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

9 2. When the person is employed by a relative who is within the
10 first degree of consanguinity or who resides in the same household.
11 The person shall comply with all provisions of law and rule
12 regarding ignition interlock devices.

13 C. 1. The requirements of subsection A of this section shall
14 be a prerequisite and condition for reinstatement of driving
15 privileges, in addition to other conditions for driving privilege
16 reinstatement provided by law or by rule of the Department. The
17 Department shall issue a restricted driver license to the person,
18 upon payment of a restricted driver license fee of Fifty Dollars
19 (\$50.00) and all other appropriate fees by the person. The
20 restricted driver license and the driving record of the person shall
21 indicate by an appropriate restriction that the person is only
22 authorized to operate a vehicle upon which an ignition interlock is
23 installed. If the person is operating a motor vehicle owned or
24 leased by an employer who has not given permission for an ignition

1 interlock device to be installed, the employer shall provide the
2 person with a letter, on official letterhead of the employer, which
3 the person shall carry in his or her immediate possession at all
4 times when operating a motor vehicle and shall display for
5 examination and inspection upon demand of a peace officer.

6 2. The restricted driver license fee authorized by this section
7 shall be remitted to the State Treasurer to be credited to the
8 Department of Public Safety Revolving Fund. All monies accruing to
9 the credit of the Department of Public Safety Revolving Fund from
10 restricted driver license fees shall be budgeted and expended solely
11 for the purpose of administering the provisions of this section.

12 3. The installation of an ignition interlock device, as
13 required by this subsection, shall not be construed to authorize the
14 person to drive unless the person is otherwise eligible to drive.

15 D. 1. Installation of an ignition interlock device pursuant to
16 paragraph 1 of subsection A of this section shall be for a period of
17 ~~six (6) months~~ twelve (12) months which shall run concurrently with
18 a court order, if any, for installation of an ignition interlock
19 device pursuant to the same conviction.

20 2. Installation of an ignition interlock device pursuant to
21 paragraph 2 of subsection A of this section shall be for a period of
22 twelve (12) months which shall run concurrently with a court order,
23 if any, for installation of an ignition interlock device pursuant to
24 a conviction which caused the person to be classified as an

1 excessive user of alcohol or of a combination of alcohol and any
2 other intoxicating substance.

3 E. The person shall pay the monthly maintenance fee for each
4 ignition interlock device installed pursuant to this section. The
5 person shall comply with all provisions of law regarding ignition
6 interlock devices.

7 F. The ignition interlock device provider shall make available
8 to the Department regular reports of violations, if any, for each
9 ignition interlock device installed pursuant to this section.

10 G. Pursuant to Section 6-113 of ~~Title 47 of the Oklahoma~~
11 ~~Statutes~~ this title, the Department may revoke or suspend the
12 driving privileges of the person for reports from the provider which
13 indicate attempts by the person to operate a motor vehicle when the
14 person is under the influence of alcohol.

15 H. The Department shall promulgate rules necessary to implement
16 and administer this section.

17 SECTION 3. AMENDATORY 47 O.S. 2001, Section 6-303, as
18 last amended by Section 13, Chapter 326, O.S.L. 2007 (47 O.S. Supp.
19 2008, Section 6-303), is amended to read as follows:

20 Section 6-303. A. No person shall operate a motor vehicle upon
21 the public roads, streets, highways, turnpikes or other public place
22 of this state without having a valid driver license for the class of
23 vehicle being operated from the Department of Public Safety, except
24 as herein specifically exempted.

1 Any violation of the provisions of this subsection shall
2 constitute a misdemeanor and shall be punishable by a fine of not
3 less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars
4 (\$300.00) plus costs or by imprisonment for not more than thirty
5 (30) days, or by both such fine and imprisonment.

6 Any person charged with violating this section who produces in
7 court, on or before the court date, a renewal or replacement driver
8 license issued to him or her shall be entitled to dismissal of such
9 charge without payment of court costs and fine.

10 B. Any person who drives a motor vehicle on any public roads,
11 streets, highways, turnpikes or other public place of this state at
12 a time when the person's privilege to do so is canceled, denied,
13 suspended or revoked or at a time when the person is disqualified
14 from so doing shall be guilty of a misdemeanor and upon conviction
15 shall be punished by a fine:

16 1. For a first conviction, of not less than One Hundred Dollars
17 (\$100.00) and not more than Five Hundred Dollars (\$500.00);

18 2. For a second conviction, of not less than Two Hundred
19 Dollars (\$200.00) and not more than Seven Hundred Fifty Dollars
20 (\$750.00); or

21 3. For a third and subsequent conviction, of not less than
22 Three Hundred Dollars (\$300.00) and not more than One Thousand
23 Dollars (\$1,000.00), or by imprisonment for not more than one (1)

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1 year or by both such fine and imprisonment. Each act of driving on
2 the highways as prohibited shall constitute a separate offense.

3 C. Any person who drives a motor vehicle on any public roads,
4 streets, highways, turnpikes or other public roads of this state at
5 a time when the driving privilege of that person is canceled,
6 denied, suspended or revoked, pursuant to ~~paragraph 1 of subsection~~
7 subsections A and F of Section 6-205.1 of this title, shall be
8 guilty of a misdemeanor and upon conviction shall be punished by a
9 fine:

10 1. For a first conviction, of not less than Five Hundred
11 Dollars (\$500.00) and not more than One Thousand Dollars
12 (\$1,000.00), together with a mandatory incarceration of thirty (30)
13 days; the incarceration may only be suspended by the installation of
14 an approved ignition interlock on all vehicles available to the
15 person for a period of twelve (12) months;

16 2. For a second conviction, of not less than One Thousand
17 Dollars (\$1,000.00) and not more than Two Thousand Dollars
18 (\$2,000.00), together with a mandatory period of incarceration of
19 sixty (60) days; the incarceration may only be suspended by the
20 installation of an approved ignition interlock on all vehicles
21 available to the person for a period of twelve (12) months; or

22 3. For a third and subsequent conviction, of not less than Two
23 Thousand Dollars (\$2,000.00) and not more than Five Thousand Dollars
24 (\$5,000.00), ~~or by imprisonment for not more than one (1) year or by~~

1 ~~both such fine and imprisonment~~ together with a mandatory period of
2 incarceration of ninety (90) days; the incarceration may only be
3 suspended by the installation of an approved ignition interlock on
4 all vehicles available to the person for a period of eighteen (18)
5 months. Each act of driving on the highways as prohibited shall
6 constitute a separate offense.

7 D. The Department, upon receiving a record of conviction of an
8 offense committed by any person whose license or privilege to
9 operate motor vehicles is under suspension or revocation, shall
10 extend the period of such suspension or revocation for an additional
11 three-month period of time. The additional orders of suspension or
12 revocation shall be dated and become effective the day following the
13 date terminating the prior order of suspension or revocation.

14 E. The Department, upon receiving a record of conviction of an
15 offense committed by any person whose license or privilege to
16 operate motor vehicles is under revocation, pursuant to paragraph 1,
17 2, or 3 of subsection A or subsection F of Section 6-205.1 of this
18 title, shall extend the period of such revocation for an additional
19 four-month period of time. The additional orders of revocation
20 shall be dated and become effective the day following the date
21 terminating the prior order of revocation.

22 F. It shall be a misdemeanor, punishable by imprisonment for
23 not less than seven (7) days, nor more than six (6) months or by a
24 fine of not more than Five Hundred Dollars (\$500.00), or by both

1 such fine and imprisonment for any person to apply for a renewal or
2 a replacement license to operate a motor vehicle while the person's
3 license, permit or other evidence of driving privilege is in the
4 custody of a law enforcement officer or the Department. A notice
5 regarding this offense and the penalty therefore shall be included
6 on the same form containing the notice of revocation issued by the
7 officer.

8 G. Any fine collected pursuant to a second or subsequent
9 conviction as provided for in subsections B and C of this section,
10 shall be deposited to the Trauma Care Assistance Revolving Fund
11 ~~created in Section 1-2522 of Title 63 of the Oklahoma Statutes.~~

12 SECTION 4. AMENDATORY 47 O.S. 2001, Section 754.1, as
13 last amended by Section 17, Chapter 394, O.S.L. 2005 (47 O.S. Supp.
14 2008, 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 of this title or under the
18 provisions of Section 6-205.1 of this title, may modify the
19 revocation or denial when it is determined by the Department that no
20 other adequate means of transportation exists for the person whose
21 driving privilege has been revoked or denied; provided, any
22 modification under this paragraph shall apply to Class D motor
23 vehicles only. Any modification of a denial or revocation under

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1 this section shall be in effect until all reinstatement conditions
2 are met.

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

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

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

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

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1 C. Upon the issuance of a modification order pursuant to this
2 section or Section 755 of this title, the person shall pay a
3 modification fee of One Hundred Fifty Dollars (\$150.00) to the
4 Department. For each modification fee collected pursuant to the
5 provisions of this section, One Hundred Dollars (\$100.00) shall be
6 remitted to the State Treasurer to be credited to the General
7 Revenue Fund in the State Treasury and Fifty Dollars (\$50.00) shall
8 be remitted to the State Treasurer to be credited to the Department
9 of Public Safety Revolving Fund. All monies accruing to the credit
10 of the Department of Public Safety Revolving Fund from modification
11 fees 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 5. AMENDATORY 47 O.S. 2001, Section 1112, is
19 amended to read as follows:

20 Section 1112. Every owner of a vehicle possessing a certificate
21 of title shall, before using the same in this state, make an
22 application for the registration of such vehicle with a motor
23 license agent. The application shall contain such information as
24 shall be required by the Oklahoma Tax Commission. Every owner, when

1 making application for registration, shall furnish the following
2 information:

3 1. A full description of the vehicle including the
4 manufacturer's serial or other identification number, any security
5 interest upon the vehicle, an odometer reading of the vehicle when
6 applicable, and the insurance security verification to the vehicle;

7 2. The correct name and address, the name of the city, county
8 and state in which the person in whose name the vehicle is to be
9 registered resides, the driver license number of the owner ~~if the~~
10 ~~owner has a driver license~~ or the Federal Employers Identification
11 Number of the owner if such owner is not an individual, and such
12 other information as may be prescribed by the Tax Commission; and

13 3. a. The name of the carrier of the owner's insurance
14 policy for such vehicle,

15 b. The policy number of the owner's policy for such
16 vehicle, if available, or the name of the agent or
17 office where the existence of security may be
18 verified, if other than the carrier,

19 c. The effective dates of the owner's policy for such
20 vehicle, and

21 d. A statement of the existence of a nonuse affidavit if
22 filed by the vehicle owner pursuant to the provisions
23 of Section 7-607 of this title.

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1 In every case where a vehicle has been registered upon an
2 application containing any false statement of a fact required in
3 this section to be shown in an application for the registration
4 thereof, the Tax Commission shall give written notice of at least
5 five (5) days to the owner of the vehicle, and shall require the
6 owner to appear before it for the purpose of showing cause why the
7 registration should not be canceled. Unless satisfactory
8 explanation is given by the owner concerning such false statement,
9 the Tax Commission shall cancel the registration. The owner of the
10 vehicle shall then be required to immediately reregister the vehicle
11 and pay the required fees. The owner shall not be entitled to
12 refund or credit for the fees paid for registration of the motor
13 vehicle made under the application which contained any false
14 statement of fact.

15 The Tax Commission shall insert in the application forms
16 appropriate notice to the applicant that any false statement of a
17 fact required to be shown in such application for registration
18 subjects the applicant to prosecution.

19 SECTION 6. This act shall become effective November 1, 2009.
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