STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1797 By: Tibbs

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 2-111, as last amended by Section 3, Chapter 326, O.S.L. 2007 (47 O.S. Supp. 2010, Section 2-111), which relates to Department of Public Safety records; prohibiting the duplication of certain records; making records available upon request and payment of fees; amending 47 O.S. 2001, Sections 6-106, as last amended by Section 1, Chapter 277, O.S.L. 2010, 6-117, as last amended by Section 1, Chapter 426, O.S.L. 2010 and 6-205.2, as last amended by Section 19, Chapter 311, O.S.L. 2006 (47 O.S. Supp. 2010, Sections 6-106, 6-117 and 6-205.2), which relate to driver licenses; modifying application requirements for commercial driver licenses; requiring certain applicants to submit medical examiner certification; deleting certain notification requirement; directing the Department of Public Safety to maintain certain reports and abstracts; clarifying record-keeping requirements; providing procedures for issuing motor vehicle reports; providing for the collection and deposit of fees into certain revolving funds; authorizing the adoption and establishment of certain rules; stating procedures for motor vehicle report notification system; modifying and expanding scope of certain definition; establishing disqualification time periods for violating out-of-service orders; requiring disqualification of driving privileges under certain circumstances; making certain acts unlawful; amending Section 1, Chapter 218, O.S.L. 2010 (47 O.S. Supp. 2010, Section 11-901c), which relates to unlawful use of cellular telephones; expanding scope of crime to include operators of commercial motor vehicles; amending 47 O.S. 2001, Section 12-417, as last

amended by Section 10, Chapter 190, O.S.L. 2005 (47 O.S. Supp. 2010, Section 12-417), which relates to the Oklahoma Mandatory Seat Belt Use Act; clarifying seat belt use requirements; modifying definition; amending 47 O.S. 2001, Sections 14-109, as last amended by Section 1, Chapter 102, O.S.L. 2009, 14-116, as last amended by Section 1, Chapter 428, O.S.L. 2010 and Section 12, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2010, Sections 14-109, 14-116 and 14-120.2), which relate to vehicle size, weight and load limitations; clarifying utility and refuse collection exception; providing cancellation or revision fee for certain permits; directing deposit of fee into certain revolving fund; updating statutory reference; requiring Oklahoma Highway Patrol to provide superload escorts; defining term; stating fee for escort; amending 47 O.S. 2001, Section 230.6, as last amended by Section 14, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2010, Section 230.6), which relates to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act; clarifying scope of certain prohibited acts; increasing amount of administrative penalties; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-111, as last amended by Section 3, Chapter 326, O.S.L. 2007 (47 O.S. Supp. 2010, Section 2-111), is amended to read as follows:

Section 2-111. A. All records of the Department, other than those declared by law to be confidential for the use of the Department, shall be open to public inspection during office hours<u>; provided, no person shall be authorized to transcribe, copy, photocopy, photograph, or otherwise duplicate any such record upon</u>

inspection. The Commissioner shall provide any such record to any authorized recipient upon request in accordance with the Open Records Act and the Driver's Privacy Protection Act, Title 18 of the United States Code, Sections 2721 through 2725, if applicable, and upon payment by the recipient of all required fees associated with the record.

B. The Commissioner shall supervise the maintaining of all records of the Department and shall adopt rules concerning the destruction and retention of records. Records of the Department shall not be subject to the provisions of:

1. Sections 305 through 317 of Title 67 of the Oklahoma Statutes or be transferred to the custody or control of the State Archives Commission;

2. Section 590 of Title 21 of the Oklahoma Statutes; or

3. The Records Management Act, Sections 201 through ~~215~~ 217 of Title 67 of the Oklahoma Statutes.

The Commissioner may, pursuant to an adopted rule, order destruction of records deemed to be no longer of value to the Department in carrying out the powers and duties of the Department.

C. 1. The Commissioner may cause any or all records kept by the Department of Public Safety to be photographed, microphotographed, photostated, reproduced on film, or stored on computer storage medium. The film or reproducing material shall be of durable material, and the device used to reproduce the records on

the film or reproducing material shall accurately reproduce and perpetuate the original records in all detail.

2. The photostatic copy, photograph, microphotograph, photographic film or computerized image of the original records shall be deemed to be an original record for all purposes and shall be admissible as evidence in all courts or administrative agencies. A facsimile, exemplification, or certified copy thereof shall be deemed to be a transcript, exemplification, or certified copy of the original.

3. The photostatic copies, photographs, microphotographs, reproductions on film, or computerized images shall be placed in conveniently accessible files and provisions made for preserving, examining, and using the copies, photographs, microphotographs, reproductions on film and computerized images. The Commissioner of Public Safety is empowered to authorize the disposal, archival storage, or destruction of the original records or papers.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-106, as last amended by Section 1, Chapter 277, O.S.L. 2010 (47 O.S. Supp. 2010, Section 6-106), is amended to read as follows:

Section 6-106. A. 1. Every application for a driver license or identification card shall be made by the applicant upon a form furnished by the Department of Public Safety.

2. Every original, renewal, or replacement application for a driver license or identification card made by a male applicant who

is at least sixteen (16) but less than twenty-six (26) years of age shall include a statement that by submitting the application, the applicant is consenting to registration with the Selective Service System. The pertinent information from the application shall be forwarded by the Department to the Data Management Center of the Selective Service System in order to register the applicant as required by law with the Selective Service System. Any applicant refusing to sign the consent statement shall be denied a driver license or identification card.

3. Every applicant for a driver license or identification card shall provide to the Department at the time of application both primary and secondary proofs of identity. The Department shall promulgate rules prescribing forms of primary and secondary identification acceptable for an original Oklahoma driver license.

B. Every applicant for a driver license shall state upon the application the following information:

1. Full name;

2. Date of birth;

3. Sex;

4. Residence address or mailing address and county of residence to be displayed on the license;

5. Mailing address and residence address to be maintained by the Department for the purpose of giving notice, if necessary, as required by Section 2-116 of this title;

6. Medical information, as determined by the Department, which shall assure the Department that the person is not prohibited from being licensed as provided by paragraph 7 of subsection A of Section 6-103 of this title;

7. Whether the applicant is deaf or hard-of-hearing;

8. A brief description of the applicant, as determined by the Department;

9. Whether the applicant has previously been licensed, and, if so, when and by what state or country, and whether any license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation or refusal;

10. Whether the applicant is an alien eligible to be considered for licensure and is not prohibited from licensure pursuant to paragraph 9 of subsection A of Section 6-103 of this title;

11. Whether the applicant has:

a. previously been licensed and, if so, when and by what state or country, and

b. held more than one license at the same time during the immediately preceding ten (10) years; and

12. Social security number.

No person shall request the Department to use the social security number of that person as the driver license number. Upon renewal or replacement of any driver license issued after the effective date of

this act, the licensee shall advise the Department or the motor license agent if the present driver license number of the licensee is the social security number of the licensee. If the driver license number is the social security number, the Department or the motor license agent shall change the driver license number to a computer-generated alphanumeric identification.

C. In addition to the requirements of subsections A and B of this section, every applicant for a commercial driver license ~~with~~:

1. Beginning January 30, 2012:

a. if the applicant is subject to the requirements of 49 C.F.R. Part 391 and is applying for an original, renewal, or replacement license, and

b. every person who, upon the effective date of this act, is currently the holder of a commercial driver license and is subject to the requirements of 49 C.F.R. Part 391 and who does not apply for a renewal or replacement license prior to January 30, 2014,

shall submit to the Department and maintain with the Department a current approved medical examiner certificate signed by a licensed physician authorized to perform and approve medical examiner certifications. The Department shall adopt rules regarding procedures for maintaining medical examiner certifications pursuant to the requirements in 49 C.F.R., Parts 383 and 384. Any commercial driver licensee subject to the requirements of this paragraph who

fails to maintain on file with the Department a current, approved medical examiner certification shall have the driving privileges of the person downgraded to a Class D driver license by the Department;

2. If the applicant is applying for an original commercial driver license in Oklahoma or is transferring a commercial driver license from another state to Oklahoma, shall have his or her prior driving record in other states for the immediately preceding ten (10) years reviewed by the Department, unless the record review has already been performed. As a result of the review, if it is determined by the Department that the applicant is subject to a period of disqualification as prescribed by Section 6-205.2 of this title which has not yet been imposed, the Department shall impose the period of disqualification and the applicant shall serve the period of disqualification before a commercial driver license is issued to the applicant; provided, nothing in this paragraph shall be construed to prevent the issuance of a Class D driver license to the applicant; and

3. If the applicant has or is applying for a hazardous material endorsement, shall submit to a security threat assessment performed by the Transportation Security Administration of the Department of Homeland Security as required by and pursuant to 49 C.F.R., Part 1572, which shall be used to determine whether the applicant is eligible for the endorsement pursuant to federal law and regulation.

~~The Department of Public Safety shall notify each commercial driving school of the passage of this section, and each commercial driving school shall notify prospective students of its school of the hazardous material endorsement requirement.~~

D. ~~Upon the effective date of this act and in~~ In addition to the requirements of subsections A and B of this section, every applicant shall be given an option on the application for issuance of a driver license or identification card or renewal pursuant to Section 6-115 of this title to provide an emergency contact person. The emergency contact information requested may include full name, address, and phone number. The emergency contact information shall be maintained by the Department and shall be used by the Department and law enforcement for emergency purposes only. A person listed as an emergency contact may request to be removed at any time. Any update to a change of name, address, or phone number may be made by the applicant listing the emergency contact person or by the person listed as the emergency contact.

E. Whenever application is received from a person previously licensed in another jurisdiction, the Department shall request a copy of the driving record from the other jurisdiction and, effective September 1, 2005, from all other jurisdictions in which the person was licensed within the immediately previous ten (10) years. When received, the driving record shall become a part of the driving record of the person in this state with the same force and

effect as though entered on the driver's record in this state in the original instance.

F. Whenever the Department receives a request for a driving record from another licensing jurisdiction, the record shall be forwarded without charge.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 6-117, as last amended by Section 1, Chapter 426, O.S.L. 2010 (47 O.S. Supp. 2010, Section 6-117), is amended to read as follows:

Section 6-117. A. The Department of Public Safety shall file every application for a driver license or identification card received by the Department and shall maintain suitable indexes containing:

1. All applications denied and on each thereof note the reasons for the denial;

2. All applications granted;

3. The name of every person whose driving privilege has been suspended, revoked, cancelled, or disqualified by the Department and after each such name note the reasons for the action. Any notation of suspension of the driving privilege of a person for reason of nonpayment of a fine shall be removed from the driving record after the person has paid the fine and the driving privilege of the person is reinstated as provided for by law;

4. The county of residence, the name, date of birth, and mailing address of each person residing in that county who is

eighteen (18) years of age or older, and who is the holder of a current driver license or a current identification card issued by the Department of Public Safety for the purpose of ascertaining names of all persons qualified for jury service as required by Section 18 of Title 38 of the Oklahoma Statutes; ~~and~~

5. The name, driver license number, and mailing address of every person for the purpose of giving notice, if necessary, as required by Section 2-116 of this title; and

6. All collision reports and abstracts of court records of convictions related to traffic offenses and to other offenses required by law to be placed upon a driving record received by the Department pursuant to the laws of this state.

B. The Department shall file all collision reports and abstracts of court records of convictions related to traffic offenses and to other offenses required by law to be placed upon a driving record received by ~~it~~ the Department pursuant to the laws of this state and maintain convenient records of the records and reports or make suitable notations in order that an individual record of a person showing the convictions of the person and the traffic collisions in which the person has been involved shall be readily ascertainable and available for the consideration of the Department of Public Safety upon any application for a driver license or renewal of a driver license and at other suitable times. Any abstract, index or other entry relating to a driving record

according to the licensing authority in another state or a province of Canada may be posted upon the driving record of any resident of this state when notice thereof is received by documentation or by electronic transmission. The individual record of a person shall not include any collision reports and abstracts of court records involving a collision in which the person was not issued a citation or if a citation is issued and the person was not convicted.

C. 1. The Commissioner and the officers of the Department as the Commissioner may designate are hereby authorized to prepare under the seal of the Department and deliver upon request a copy of any collision report on file with the Department, charging a fee of Seven Dollars ($7.00). However, the Department shall not be required to furnish personal information from the collision report which is contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725.

2. Notwithstanding the provisions of paragraph 1 of this subsection, the Department is authorized to enter into contracts to supply information regarding vehicles reported to be involved in collisions. For each vehicle, the information shall be limited to only that which ~~only~~ describes the vehicle and the collision. The Department shall not be required to provide any information regarding the owner or operator of the vehicle or any information which would conflict with Section 2-110 or Section 1109 of this title.

D. 1. The Department of Public Safety ~~or any motor license agent~~ upon request shall prepare and furnish to any authorized person a Motor Vehicle Report of any person subject to the provisions of the motor vehicle laws of this state. However, the Department shall not be required to furnish personal information from a driving record contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. The Motor Vehicle Report shall be a summary of the driving record of the person and shall include the enumeration of any motor vehicle collisions, reference to convictions for violations of motor vehicle laws, and any action taken against the privilege of the person to operate a motor vehicle, as shown by the files of the Department. A Motor Vehicle Report may include collisions, convictions, and actions taken against the driving privileges of the person which are reported by another state or licensing jurisdiction. A Motor Vehicle Report shall be provided by the Department to an authorized person for one of the following time periods:

a. for the three (3) years preceding the date of the request, which three-year Motor Vehicle Report may be requested and obtained from the Department or any motor license agent,

b. for the five (5) years preceding the date of the request, which five-year Motor Vehicle Report may be

requested and obtained from the Department or any motor license agent,

c. for the ten (10) years preceding the date of the request, which ten-year Motor Vehicle Report may be requested and obtained only from the Department and shall be issued only to the person named on the ten-year Motor Vehicle Report, or

d. for the entire period of time the person has been licensed in Oklahoma, which Oklahoma Lifetime Motor Vehicle Report may be requested and obtained only from the Department and shall be issued only to the person named on the Oklahoma Lifetime Motor Vehicle Report.

2. The Department shall not be required to release to any person, in whole or in part and in any format, a driving index, as described in subsection A of this section, except as otherwise provided for by law. The Department shall not issue a ten-year or Oklahoma Lifetime Motor Vehicle Report to any person other than the person named in the Motor Vehicle Report. No employer, insurer, other person, or other business or entity shall require any person to make available, disclose, or otherwise release the ten-year or Oklahoma Lifetime Motor Vehicle Report of that person.

3. For each three-year Motor Vehicle Report:

a. furnished by the Department of Public Safety, the Department shall collect the sum of Twenty-five

Dollars ($25.00), Twenty Dollars ($20.00) of which shall be deposited in the General Revenue Fund and Five Dollars ($5.00) shall be deposited in the Department of Public Safety Revolving Fund~~. For each Motor Vehicle Report~~,

b. furnished by a motor license agent, the agent shall collect the sum of Twenty-five Dollars ($25.00), Eighteen Dollars ($18.00) of which shall be paid to the Oklahoma Tax Commission for deposit in the General Revenue Fund in the State Treasury, Five Dollars ($5.00) shall be deposited in the Department of Public Safety Revolving Fund and Two Dollars ($2.00) of which shall be retained by the motor license agent~~.~~ ~~Persons~~, or

c. if issued to a person sixty-five (65) years of age or older, the person shall not be required to pay a fee for ~~their own~~ a Motor Vehicle Report of the person furnished by the Department or a motor license agent.

4. For each five-year Motor Vehicle Report:

a. furnished by the Department of Public Safety, the Department shall collect the sum of Thirty Dollars ($30.00), Twenty Dollars ($20.00) of which shall be deposited in the General Revenue Fund and Ten Dollars

($10.00) shall be deposited in the Department of Public Safety Revolving Fund, or

b. furnished by a motor license agent, the agent shall collect the sum of Thirty Dollars ($30.00), Eighteen Dollars ($18.00) of which shall be paid to the Oklahoma Tax Commission for deposit in the General Revenue Fund in the State Treasury, Ten Dollars ($10.00) shall be deposited in the Department of Public Safety Revolving Fund and Two Dollars ($2.00) of which shall be retained by the motor license agent.

5. For each ten-year Motor Vehicle Report furnished by the Department of Public Safety, the Department shall collect the sum of Thirty-five Dollars ($35.00), Twenty Dollars ($20.00) of which shall be deposited in the General Revenue Fund and Fifteen Dollars ($15.00) shall be deposited in the Department of Public Safety Revolving Fund.

6. For each Oklahoma Lifetime Motor Vehicle Report furnished by the Department of Public Safety, the Department shall collect the sum of Forty Dollars ($40.00), Twenty Dollars ($20.00) of which shall be deposited in the General Revenue Fund and Twenty Dollars ($20.00) shall be deposited in the Department of Public Safety Revolving Fund.

7. For purposes of this subsection, a Motor Vehicle Report for any time period prescribed in paragraph 1 of this subsection, shall

include a report which indicates that no driving record is on file with the Department of Public Safety for the information received by the Department in the request for the Motor Vehicle Report and the appropriate fee shall be charged and collected by the Department or the motor license agent, as applicable.

E. The Department of Public Safety may ~~develop~~ adopt rules and establish procedures whereby an employer of a person~~:~~

~~1. Who has a Class A, B or C driver license; and~~

~~2. Who~~ who operates a ~~commercial~~ motor vehicle in the course of his or her employment with the employer~~,~~ may automatically be notified, pursuant to a fee schedule established by the Department, should the driving record of a person reflect a traffic conviction in any court or an administrative action by the Department which alters the status of the ~~commercial~~ driving privileges of the person. The notification system shall include electronic delivery of a Motor Vehicle Report at least annually for any employee who is a commercial driver licensee or who operates a commercial motor vehicle, as required by 49 C.F.R., Section 391.25. All monies received by the Commissioner of Public Safety and the officers and employees of the Department pursuant to this subsection shall be deposited in the Department of Public Safety Revolving Fund; provided, the fee received for electronic delivery of a Motor Vehicle Report shall be deposited as provided in subsection G of this section.

F. The Commissioner is authorized to establish a procedure for reviewing the driving records of state residents who are existing policyholders of any insurance company licensed to operate in this state during specified periods of time and producing a report which identifies the policyholders which have had violation and/or status changes to their driving records during such time period. The Department may sell such report to the insurance company or its agent at a fee to be set by the Department. Any such report sold by the Department shall only consist of information otherwise lawfully obtainable by the insurance company or its agent. The fee shall be sufficient to recover all costs incurred by the Department and insure that there will be no net revenue loss to the state. Such fee shall be deposited in the Department of Public Safety Revolving Fund.

G. All monies received by the Commissioner of Public Safety and the officers and employees of the Department shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury except as otherwise provided for by law.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 6-205.2, as last amended by Section 19, Chapter 311, O.S.L. 2006 (47 O.S. Supp. 2010, Section 6-205.2), is amended to read as follows:

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

1. A nonvacated adjudication of guilt;

2. A determination that a person has violated or failed to comply with this section in any court or by the Department of Public Safety following an administrative determination;

3. A nonvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

4. A plea of guilty or nolo contendere accepted by the court;

5. The payment of any fine or court costs; or

6. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

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

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

2. Refusing to submit to a test for determination of alcohol concentration, as required by Section 751 of this title, or as required by the state in which the arrest occurred, while operating a Class A, B or C commercial motor vehicle, or if the person is the

holder of a commercial driver license, committing the offense while operating any vehicle;

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

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

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

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

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

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

D. The Department of Public Safety shall disqualify any person from operating a Class A, B or C commercial motor vehicle for life upon receiving a record of conviction in any court of any of the disqualifying offenses described in subsection B of this section after a former conviction of any of the following disqualifying offenses, when the second conviction has become final.

The Department of Public Safety may promulgate rules establishing conditions under which a disqualification for life pursuant to the provisions of this subsection may be reduced to a

period of not less than ten (10) years provided a previous lifetime disqualification has not been reduced.

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

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

this subsection, "serious traffic offense" shall mean any of the following offenses committed while operating a commercial motor vehicle:

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

2. Reckless driving;

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

4. Erratic or unsafe lane changes;

5. Following too ~~close~~ closely;

6. Failure to obtain a commercial driver license;

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

8. Failure to have:

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

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

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

9. Operating a commercial motor vehicle while using a cellular telephone or electronic communication device to write, send, or read a text-based communication while the commercial motor vehicle is in motion.

G. Upon the receipt of a person's record of conviction of violating a lawful out-of-service order~~, except as provided in subsection H of this section~~, when the conviction becomes final, the Department shall disqualify the driving privilege of the person as follows:

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

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

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

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

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

b. while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 P. app. 1801-1813), or while

operating a motor vehicle designed for transport of sixteen or more passengers, including the driver, the period of disqualification shall be for three (3) years; and

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

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

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

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

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

~~J.~~ I. Any person who drives a Class A, B or C commercial motor vehicle on any public roads, streets, highways, turnpikes or any other public place of this state at a time when the person has been disqualified or when the privilege to do so is canceled, denied, suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each act of driving as prohibited shall constitute a separate offense.

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

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

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

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

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

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

~~N.~~ M. The Department of Public Safety shall disqualify any person from operating a Class A, B, or C commercial motor vehicle for failure to provide and maintain a current medical examiner certificate pursuant to the requirements in Section 6-106 of this title and 49 CFR 383. Any person whose license is subject to disqualification pursuant to this section may avoid the effective date of the disqualification or, if disqualified, shall be eligible for reinstatement if otherwise eligible, upon meeting the requirements of Section 6-106 of this title.

N. When any record of conviction, as specified in this section, is received by the Department ~~and pertains to~~:

1. For a nonresident operator and the conviction pertains to the operation of a Class A, B or C commercial motor vehicle~~,~~; or ~~if the~~

2. For a nonresident operator who is the holder of a commercial driver license~~, a record of~~ and the conviction ~~pertaining to the nonresident operator~~ pertains to the operation of any vehicle, the Department shall not disqualify the person and shall report the conviction to the licensing jurisdiction in which the license of the nonresident to operate the commercial vehicle was issued.

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

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-801.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any person to:

1. Possess, operate or use a radar detector while operating or as a passenger in a commercial motor vehicle;

2. Operate a commercial motor vehicle in which a radar detector is installed or present; or

3. Install or have installed a radar detector in a commercial motor vehicle.

SECTION 6. AMENDATORY Section 1, Chapter 218, O.S.L. 2010 (47 O.S. Supp. 2010, Section 11-901c), is amended to read as follows:

Section 11-901c. A. It shall be unlawful for any person to operate a commercial motor vehicle or for a public transit driver to

operate a motor vehicle on any street or highway within this state while using a cellular telephone or electronic communication device to write, send, or read a text-based communication while the motor vehicle is in motion.

B. Any person who violates the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of Five Hundred Dollars ($500.00).

C. As used in this section:

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

2. "Electronic communication device" means an electronic device that permits the user to manually transmit a communication of written text by means other than through an oral transfer or wire communication. This term does not include a voice-activated global positioning or navigation system that is affixed to a motor vehicle; and

3. "Public transit driver" means:

a. any operator of a public transit vehicle owned and operated by the State of Oklahoma, any public trust authority, county, municipality, town or city within this state,

b. any operator of a school bus or multi-passenger motor vehicle owned and approved to operate by the State

Department of Education or any school district within this state, or

c. any operator, conductor or driver of a locomotive engine, railway car or train of cars.

D. This act shall not apply to railroads and railroad operating employees regulated by the Federal Railroad Administration.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 12-417, as last amended by Section 10, Chapter 190, O.S.L. 2005 (47 O.S. Supp. 2010, Section 12-417), is amended to read as follows:

Section 12-417. A. 1. Every operator and front seat passenger of a Class A commercial motor vehicle, Class B commercial motor vehicle, Class C commercial motor vehicle, and a passenger ~~car~~ vehicle operated in this state shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the motor vehicle when manufactured pursuant to 49 C.F.R., Section 571.208.

2. For the purposes of this section, ~~"passenger car"~~ "passenger vehicle" shall mean ~~"vehicle" as defined in Section 1102 of this title. "Passenger car" shall include the passenger compartment of pickups, vans, minivans, and sport utility vehicles. "Passenger car"~~ a Class D motor vehicle, but shall not include ~~trucks, truck-tractors,~~ recreational vehicles, motorcycles, ~~or~~ motorized bicycles~~.~~ ~~"Passenger car" shall not include~~, or a vehicle used primarily for

farm use which is registered and licensed pursuant to the provisions of Section 1134 of this title.

B. The Commissioner of Public Safety, upon application from a person who, for medical reasons, is unable to wear a safety seat belt system supported by written attestation of such fact from a physician licensed pursuant to Section 495 of Title 59 of the Oklahoma Statutes, may issue to the person an exemption from the provisions of this section. The exemption shall be in the form of a restriction appearing on the driver license of the person and shall remain in effect until the expiration date of the driver license. Nothing in this subsection shall be construed to prevent the person from applying for another exemption as provided for in this section. The issuance of an attestation by a physician and the subsequent issuance of an exemption by the Commissioner, in good faith, shall not give rise to, nor shall the physician and the state thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of failure of the person to wear a safety seat belt system.

C. This section shall not apply to an operator of a motor vehicle while performing official duties as a route carrier of the U.S. Postal Service.

D. The Department of Public Safety shall not record or assess points for violations of this section on any license holder's traffic record maintained by the Department.

E. Fine and court costs for violating the provisions of this section shall not exceed Twenty Dollars ($20.00).

F. Municipalities may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of those ordinances shall be the same as provided for in this section, and the enforcement provisions under those ordinances shall not be more stringent than those of this section.

SECTION 8. AMENDATORY 47 O.S. 2001, Section 14-109, as last amended by Section 1, Chapter 102, O.S.L. 2009 (47 O.S. Supp. 2010, Section 14-109), is amended to read as follows:

Section 14-109. A. On any road or highway:

1. No single axle weight shall exceed twenty thousand (20,000) pounds; and

2. The total gross weight in pounds imposed thereon by a vehicle or combination of vehicles shall not exceed the value given in the following table corresponding to the distance in feet between the extreme axles of the group measured longitudinally to the nearest foot.

Distance in Feet Between the Extremes of Any Group of 2 or More Consecutive Axles	Maximum Load in Pounds Carried on Any Group of 2 or More Consecutive Axles				
2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	

4	34,000	------	------	------	------
5	34,000	------	------	------	------
6	34,000	------	------	------	------
7	34,000	------	------	------	------
8	34,000	42,000	------	------	------
9	39,000	42,500	------	------	------
10	40,000	43,500	------	------	------
11	------	44,000	------	------	------
12	------	45,000	50,000	------	------
13	------	45,500	50,500	------	------
14	------	46,500	51,500	------	------
15	------	47,000	52,000	------	------
16	------	48,000	52,500	58,000	------
17	------	48,500	53,500	58,500	------
18	------	49,500	54,000	59,000	------
19	------	50,000	54,500	60,000	------
20	------	51,000	55,500	60,500	66,000
21	------	51,500	56,000	61,000	66,500
22	------	52,500	56,500	61,500	67,000
23	------	53,000	57,500	62,500	68,000
24	------	54,000	58,000	63,000	68,500
25	------	54,500	58,500	63,500	69,000
26	------	56,000	59,500	64,000	69,500
27	------	57,500	60,000	65,000	70,000

28	------	59,000	60,500	65,500	71,000
29	------	60,500	61,500	66,000	71,500
30	------	62,000	62,000	66,500	72,000
31	------	63,500	63,500	67,000	72,500
32	------	64,000	64,000	68,000	73,500
33	------	------	64,500	68,500	74,000
34	------	------	65,000	69,000	74,500
35	------	------	66,000	70,000	75,000
36	------	------	68,000	70,500	75,500
37	------	------	68,000	71,000	76,000
38	------	------	69,000	72,000	77,000
39	------	------	70,000	72,500	77,500
40	------	------	71,000	73,000	78,000
41	------	------	72,000	73,500	78,500
42	------	------	73,000	74,000	79,000
43	------	------	73,280	75,000	80,000
44	------	------	73,280	75,500	80,500
45	------	------	73,280	76,000	81,000
46	------	------	73,280	76,500	81,500
47	------	------	73,500	77,500	82,000
48	------	------	74,000	78,000	83,000
49	------	------	74,500	78,500	83,500
50	------	------	75,500	79,000	84,000
51	------	------	76,000	80,000	84,500

52	------	------	76,500	80,500	85,000
53	------	------	77,500	81,000	86,000
54	------	------	78,000	81,500	86,500
55	------	------	78,500	82,500	87,000
56	------	------	79,500	83,000	87,500
57	------	------	80,000	83,500	88,000
58	------	------	------	84,000	89,000
59	------	------	------	85,000	89,500
60	------	------	------	85,500	90,000

B. Except as to gross limits, the table in subsection A of this section shall not apply to a truck-tractor and dump semitrailer when used as a combination unit. In no event shall the maximum load in pounds carried by any set of tandem axles exceed thirty-four thousand (34,000) pounds for vehicles exempt from the table; however, any vehicle operating with split tandem axles or tri-axles shall adhere to the table.

C. Special permits may be issued as provided in this title for divisible loads for vehicle configurations in excess of six (6) axles. The permits may not exceed the Table "B" federal weights formula imposed by Title 23, U.S. Code, Section 127. Vehicles moving under the permits shall not traverse H-15 bridges or less without the express approval of the Secretary of Transportation.

D. Except for loads moving under special permits as provided in this title, no department or agency of this state or any county,

city, or public entity thereof shall pay for any material that exceeds the legal weight limits moving in interstate or intrastate commerce in excess of the legal load limits of this state.

E. Exceptions to this section will be:

1. Utility or refuse collection vehicles used by counties, cities, or towns located in Oklahoma or by private companies contracted by counties, cities, or towns located in Oklahoma if the following conditions are met:

a. calculation of weight for a utility or refuse collection vehicle shall be "Gross Vehicle Weight". The "Gross Vehicle Weight" of a utility or refuse collection vehicle may not exceed the otherwise applicable weight by more than fifteen percent (15%). The weight on individual axles must not exceed the manufacturer's component rating which includes axle, suspension, wheels, rims, brakes, and tires as shown on the vehicle certification label or tag, and

b. utility or refuse collection vehicles operated under these exceptions will not be allowed to operate on interstate highways;

2. Vehicles transporting timber, pulpwood, and chips in their natural state, vehicles transporting oil field fluids, oil field equipment, or equipment used in oil and gas well drilling or

exploration, and vehicles transporting grain, if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate,

b. the vehicles do not exceed five percent (5%) of the gross limits set forth in subsection A of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways;

3. Vehicles transporting rock, sand, gravel, coal, and flour if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate,

b. the vehicles do not exceed five percent (5%) of the axle limits set forth in subsection A of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways; and

4. A combination of a wrecker or tow vehicle and another vehicle or vehicle combination if:

a. the service provided by the wrecker or tow vehicle is needed to remove disabled, abandoned, or accident-damaged vehicles, and

b. the wrecker or tow vehicle is towing the other vehicle or vehicle combination directly to the nearest authorized place of repair, terminal, or vehicle storage facility.

Vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways.

F. 1. Any vehicle utilizing an auxiliary power or idle reduction technology unit in order to promote reduction of fuel use and emissions because of engine idling shall be allowed an additional four hundred (400) pounds total to the total gross weight limits set by this section.

2. To be eligible for the exception provided in this subsection, the operator of the vehicle must obtain written proof or certification of the weight of the auxiliary power or idle reduction technology unit and be able to demonstrate or certify that the idle reduction technology is fully functional.

3. Written proof or certification of the weight of the auxiliary power or idle reduction technology unit must be available to law enforcement officers if the vehicle is found in violation of applicable weight laws. The additional weight allowed cannot exceed

four hundred (400) pounds or the actual proven or certified weight of the unit, whichever is less.

G. Utility or refuse collection vehicles, vehicles transporting timber, pulpwood, and chips in their natural state, vehicles transporting oil field equipment or equipment used in oil and gas well drilling or exploration, vehicles transporting rock, sand, gravel, coal, and flour and vehicles transporting grain, operating under exceptions shall purchase an annual special overload permit for One Hundred Dollars ($100.00). This fee shall be apportioned as provided for in Section 1104 of this title.

H. For purposes of this section, "utility vehicle" shall mean any truck used by a private utility company, county, city, or town for the purpose of installing or maintaining electric, water, or sewer systems.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 14-116, as last amended by Section 1, Chapter 428, O.S.L. 2010 (47 O.S. Supp. 2010, Section 14-116), is amended to read as follows:

Section 14-116. A. The Commissioner of Public Safety shall charge a minimum permit fee of Forty Dollars ($40.00) for any permit issued pursuant to the provisions of Section 14-101 et seq. of this title. In addition to the permit fee, the Commissioner shall charge a fee of Ten Dollars ($10.00) for each thousand pounds in excess of the legal load limit. The Commissioner of Public Safety shall establish any necessary rules for collecting the fees. <u>Provided,</u>

for any permit which is canceled or revised by the requester for reasons other than an error in the permit caused by the Department of Public Safety, the Commissioner shall charge and the requester shall pay a cancellation or revision fee of Twenty Dollars ($20.00). The proceeds from each cancellation or revision fee shall be deposited to the credit of the Department of Public Safety Revolving Fund.

B. The Department of Public Safety is authorized to establish an escrow account system for the payment of permit fees. Authorized motor carriers meeting established credit requirements may participate in the escrow account system for permits purchased from all size and weight permit offices in this state. Carriers not choosing to participate in the escrow account system shall be required to make payment of the required fee or fees upon purchase of each permit as required by law. All monies collected through the escrow account system shall be deposited to a special account of the Department of Public Safety and placed in the custody of the State Treasurer. Proceeds from permits purchased using the escrow account system shall be distributed as provided for in subsection G of this section. However, fees collected through such accounts for the electronic transmission, transfer or delivery of permits, as provided for in Section 14-118 of this title, shall be credited to the Department of Public Safety Revolving Fund.

C. 1. Application for permits shall be made a reasonable time in advance of the expected time of movement of such vehicles. For emergencies affecting the health or safety of persons or a community, permits may be issued for immediate movement.

2. Size and weight permit offices in all districts where applicable shall issue permits to authorize carriers by telephone during weekdays.

3. The Commissioner of Public Safety shall develop a system for provisional permits for authorized carriers which may be used in lieu of a regular permit for the movement of oversize and overweight loads when issued an authorization number by the Department of Public Safety. Such provisional permits shall include date of movement, general load description, estimated weight, oversize notation, route of travel, truck or truck-tractor license number, and permit authorization number.

D. No overweight permit shall be valid until all license taxes due the State of Oklahoma have been paid.

E. No permit violation shall be deemed to have occurred when an oversize or overweight movement is made pursuant to a permit whose stated weight or size exceeds the actual load.

F. The first deliverer of motor vehicles designated truck carriers or well service carriers manufactured in Oklahoma shall not be required to purchase an overweight permit when being delivered to the first purchaser.

G. Except as provided in Section ~~4~~ 14-122 of this ~~act~~ title, the first One Million Two Hundred Sixteen Thousand Dollars ($1,216,000.00) of proceeds from both the permit fees and the overweight permit fees imposed pursuant to subsection A of this section collected monthly shall be apportioned as provided in Section 1104 of this title. All proceeds collected from both the permit fees and the overweight permit fees imposed pursuant to subsection A of this section in excess of One Million Two Hundred Sixteen Thousand Dollars ($1,216,000.00) shall be deposited in the Weigh Station Improvement Revolving Fund as provided in Section 1167 of this title for the purpose set forth in that section and may be used for motor carrier permitting systems and motor carrier safety and enforcement.

SECTION 10. AMENDATORY Section 12, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2010, Section 14-120.2), is amended to read as follows:

Section 14-120.2. A. Every person required by the Oklahoma Department of Transportation, the Oklahoma Transportation Authority, or any federal agency or commission to have a law enforcement escort provided by the Oklahoma Highway Patrol Division of the Department of Public Safety for the transport of any oversized load or hazardous shipment by road or rail shall pay to the Department of Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this state; provided, the Oklahoma

Highway Patrol shall be the sole provider of an escort for a superload. For purposes of this section, "superload" means any vehicle, load, or combination thereof which is twenty (20) feet or greater in width. The fee shall be a contractually obligated payment and shall include, but not be limited to:

1. The cost of each escort unit; and

2. One and one-half (1 1/2) times the rate of pay for a Highway Patrolman (Trooper), Step 7, as provided in Section 2-105.4 of this title.

B. If the Highway Patrol provides an escort to accompany the transport of an oversized load or hazardous shipment by road or rail at the request of any person that is not required to have a law enforcement escort pursuant to subsection A of this section, then the requestor shall pay to the Department of Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this state.

C. The Department of Public Safety shall adopt by rule a schedule of fees necessary to implement this section.

D. All fees collected by the Department pursuant to this section shall be deposited to the credit of the Department of Public Safety Revolving Fund.

SECTION 11. AMENDATORY 47 O.S. 2001, Section 230.6, as last amended by Section 14, Chapter 390, O.S.L. 2004 (47 O.S. Supp. 2010, Section 230.6), is amended to read as follows:

Section 230.6 A. No person prohibited from operating a commercial vehicle shall operate such commercial motor vehicle, nor shall any person authorize or require a person who has been prohibited from such operation of a motor vehicle to operate a commercial motor vehicle.

B. No person shall operate, authorize to operate, or require the operation of any vehicle or the use of any container ~~that~~ when the person has been placed out-of-service or the vehicle or container has been marked ~~out of service~~ out-of-service until all requirements of the out-of-service order of the person have been met or all required corrections for the vehicle or container have been made~~, except~~; provided, upon approval of the Department ~~such~~, the vehicle or container may be moved to another location for the purpose of repair or correction.

C. No person shall remove an out-of-service marking from a ~~transport~~ vehicle or container unless all required corrections have been made and the vehicle or container has been inspected and approved by an authorized officer, employee, or agent of the Department. No person shall return to duty unless all requirements of the out-of-service order have been met, and the person has been approved to return to duty by an authorized officer, employee, or agent of the Department.

D. No employer shall knowingly allow, require, permit or authorize an employee to operate a commercial motor vehicle:

1. During any period in which the employee:

a. has had driving privileges to operate a commercial motor vehicle suspended, revoked, canceled, denied or disqualified,

b. has had driving privileges to operate a commercial motor vehicle disqualified for life,

c. is not licensed to operate a commercial motor vehicle, or

d. has more than one commercial driver license;

2. During any period in which the employee, the commercial motor vehicle which the employee is operating, the motor carrier business or operation, or the employer is subject to an out-of-service order; or

3. In violation of a federal, state, or local law, regulation, or ordinance pertaining to railroad-highway grade crossings.

E. An employer who is determined by the Commissioner to have committed a violation of subsection D of this section shall be subject to an administrative penalty of not less than ~~Two Thousand Five Hundred Dollars ($2,500.00)~~ Two Thousand Seven Hundred Fifty Dollars ($2,750.00) nor more than ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00).

F. An employee who is determined by the Commissioner to have committed a violation of any provision of this section shall be subject to an administrative penalty of not less than ~~One Thousand~~

~~One Hundred Dollars ($1,100.00)~~ Two Thousand Five Hundred Dollars ($2,500.00) nor more than ~~Two Thousand Seven Hundred Fifty Dollars ($2,750.00)~~ Five Thousand Dollars ($5,000.00).

SECTION 12. This act shall become effective November 1, 2011.

53-1-5513 GRS 01/14/11