

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 55th Legislature (2015)

4   ENGROSSED SENATE

5   BILL NO. 183

                              By: Schulz of the Senate

  and

  Ortega of the House

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9                   An Act relating to driving privileges; amending 47  
10                   O.S. 2011, Section 6-205.2, as last amended by  
11                   Section 7, Chapter 259, O.S.L. 2013 (47 O.S. Supp.  
12                   2014, Section 6-205.2), which relates to  
13                   disqualifications from driving privileges; modifying  
14                   certain restrictions, definitions and penalties;  
15                   amending 47 O.S. 2011, Section 11-901c, as amended by  
16                   Section 6, Chapter 207, O.S.L. 2012 (47 O.S. Supp.  
17                   2014, Section 11-901c), which relates to unlawful use  
18                   of cellular telephone; modifying certain restrictions  
19                   and definitions; and providing an effective date.

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

21                   SECTION 1.           AMENDATORY           47 O.S. 2011, Section 6-205.2, as  
22                   last amended by Section 7, Chapter 259, O.S.L. 2013 (47 O.S. Supp.  
23                   2014, Section 6-205.2), is amended to read as follows:

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

                  1.   A nonvacated adjudication of guilt;

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

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

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

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

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

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

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

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

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

3 3. Driving or being in actual physical control of a Class A, B  
4 or C commercial motor vehicle while under the influence of alcohol  
5 or any other intoxicating substance or the combined influence of  
6 alcohol and any other intoxicating substance, or if the person is  
7 the holder of a commercial driver license, committing the offense  
8 while operating any vehicle. Provided, the Department shall not  
9 additionally disqualify, pursuant to this subsection, if the  
10 person's driving privilege has been disqualified in this state  
11 because of a test result or test refusal pursuant to paragraph 1 or  
12 2 of this subsection as a result of the same violation arising from  
13 the same incident;

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

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

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

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

8       8. Fraud related to examination for or issuance of a commercial  
9 learner permit or a Class A, B or C driver license; or

10       9. Failure to submit to skills or knowledge reexamination, or  
11 both, for the purpose of issuance of a commercial learner permit or  
12 a Class A, B or C driver license within thirty (30) days of receipt  
13 of notification from the Department.

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

22       D. The Department of Public Safety shall disqualify any person  
23 from operating a Class A, B or C commercial motor vehicle for life  
24 upon receiving a record of conviction in any court of any of the

1 disqualifying offenses described in subsection B of this section  
2 after a former conviction of any of the following disqualifying  
3 offenses, when the second conviction has become final.

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

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

17 F. The Department of Public Safety shall disqualify any person  
18 from operating a Class A, B or C commercial motor vehicle for sixty  
19 (60) days upon receiving a record of a second conviction of the  
20 person for a serious traffic offense arising out of separate  
21 transactions or occurrences within a three-year period, when the  
22 convictions have become final. The Department of Public Safety  
23 shall disqualify any person from operating a Class A, B or C  
24 commercial motor vehicle for one hundred twenty (120) days upon

1 receiving a record of a third conviction of a person for a serious  
2 traffic offense arising out of separate transactions or occurrences  
3 within a three-year period, when the convictions have become final;  
4 provided, the one-hundred-twenty-day period shall run in addition to  
5 and shall not run concurrently with any other period  
6 disqualification imposed pursuant to this subsection. As used in  
7 this subsection, "serious traffic offense" shall mean any of the  
8 following offenses committed while operating a commercial motor  
9 vehicle:

- 10 1. Speeding fifteen (15) miles per hour or more over the limit;
- 11 2. Reckless driving;
- 12 3. Any traffic offense committed that results in or in  
13 conjunction with a motor vehicle collision resulting in a fatality;
- 14 4. Erratic or unsafe lane changes;
- 15 5. Following too closely;
- 16 6. Failure to obtain a commercial driver license;
- 17 7. Failure to have in possession of the person a commercial  
18 driver license;
- 19 8. Failure to have:
  - 20 a. the proper class of commercial driver license for the  
21 class of vehicle being operated,
  - 22 b. the proper endorsement or endorsements for the type of  
23 vehicle being operated, including but not limited to,  
24 passengers or type of cargo being transported, or

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

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

7 10. Operating a commercial motor vehicle while using a hand-  
8 held mobile telephone.

9 For the purposes of paragraphs 9 and 10 of this subsection,  
10 operating a commercial motor vehicle and using an electronic  
11 communication device or a hand-held mobile telephone is permissible  
12 by the operator when necessary to communicate with law enforcement  
13 officials or other emergency services. Further, for the purposes of  
14 paragraphs 9 and 10 of this subsection, "operate" means operating on  
15 a street or highway, including while temporarily stationary because  
16 of traffic, a traffic control device or other momentary delays.  
17 Operating does not include when the driver of a commercial motor  
18 vehicle has moved the vehicle to the side of or off a street or  
19 highway and has halted in a location where the vehicle can safely  
20 remain stationary.

21 G. Upon the receipt of a person's record of conviction of  
22 violating a lawful out-of-service order, when the conviction becomes  
23 final the Department shall disqualify the driving privilege of the  
24 person as follows:

1        1. For a first conviction for violating an out-of-service  
2 order:

- 3            a. except as provided in subparagraph b of this  
4 paragraph, the period of disqualification shall be for  
5 ~~ninety (90)~~ one-hundred eighty (180) days, or  
6            b. while transporting hazardous materials required to be  
7 placarded under the Hazardous Materials Transportation  
8 Act, 49 P. app. 180-1813, or while operating a motor  
9 vehicle designed for transport of sixteen (16) or more  
10 passengers, including the driver, the period of  
11 disqualification shall be for one (1) year;

12        2. For a second conviction within ten (10) years for violating  
13 an out-of-service order:

- 14            a. except as provided in subparagraph b of this  
15 paragraph, the period of disqualification shall be for  
16 ~~one (1) year~~ two (2) years, or  
17            b. while transporting hazardous materials required to be  
18 placarded under the Hazardous Materials Transportation  
19 Act, 49 P. app. 180-1813, or while operating a motor  
20 vehicle designed for transport of sixteen (16) or more  
21 passengers, including the driver, the period of  
22 disqualification shall be for three (3) years; and  
23  
24



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

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

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

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

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

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

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

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

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

16        M. When any record of conviction, as specified in this section,  
17 is received by the Department and pertains to a nonresident operator  
18 of a Class A, B or C commercial motor vehicle, or if the nonresident  
19 operator is the holder of a commercial driver license, a record of  
20 the conviction pertaining to the nonresident operator of any  
21 vehicle, the Department shall not disqualify the person and shall  
22 report the conviction to the licensing jurisdiction in which the  
23 license of the nonresident to operate the commercial vehicle was  
24 issued.

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

4 SECTION 2. AMENDATORY 47 O.S. 2011, Section 11-901c, as  
5 amended by Section 6, Chapter 207, O.S.L. 2012 (47 O.S. Supp. 2014,  
6 Section 11-901c), is amended to read as follows:

7 Section 11-901c. A. It shall be unlawful for any person to  
8 operate a commercial motor vehicle or for a public transit driver to  
9 operate a motor vehicle on any street or highway within this state  
10 while ~~using~~:

11 1. Using a cellular telephone or electronic communication  
12 device to write, send, or read a text-based communication while the  
13 motor vehicle is in motion; or

14 2. Using a hand-held mobile telephone while operating a  
15 commercial motor vehicle.

16 For the purposes of paragraphs 1 and 2 of this subsection, using  
17 a hand-held mobile telephone is permissible by drivers of a  
18 commercial motor vehicle when necessary to communicate with law  
19 enforcement officials or other emergency services.

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

23 C. As used in this section:  
24

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

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

9        3. "Operate" means operating on a street or highway, including  
10 while temporarily stationary because of traffic, a traffic control  
11 device or other momentary delays. Operating does not include when  
12 the driver of a commercial motor vehicle has moved the vehicle to  
13 the side of or off a street or highway and has halted in a location  
14 where the vehicle can safely remain stationary;

15        4. "Public transit driver" means:

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

20            b. any operator of a school bus or multi-passenger motor  
21 vehicle owned and approved to operate by the State  
22 Department of Education or any school district within  
23 this state, or  
24

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

3 ~~4.~~ 5. "Write, send, or read a text-based communication", also  
4 known as texting, means manually entering alphanumeric text into,  
5 sending text, or reading text from, an electronic device, and  
6 includes, but is not limited to, short message service (SMS), e-  
7 mailing, instant messaging (IM), a command or request to access a  
8 World Wide Web page, or engaging in any other form of electronic  
9 text retrieval or entry, for present or future communication. As  
10 used in this paragraph, texting does not include:

- 11 a. using voice commands to select or enter a telephone  
12 number, an extension number, or voicemail retrieval  
13 codes and commands into an electronic device for the  
14 purpose of initiating or receiving a phone call,  
15 b. inputting, selecting, or reading information on a  
16 global positioning system or navigation system, or  
17 c. using a device capable of performing multiple  
18 functions for a purpose that is not otherwise  
19 prohibited in this part, including, but not limited  
20 to, fleet management systems, dispatching devices,  
21 smart phones, citizens band radios, and music players.

22 D. This act shall not apply to railroads and railroad operating  
23 employees regulated by the Federal Railroad Administration.  
24

SECTION 3. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/06/2015 -  
DO PASS.