

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 183

By: Schulz

4
5 AS INTRODUCED

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

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

14 SECTION 1. AMENDATORY 47 O.S. 2011, Section 6-205.2, as
15 last amended by Section 7, Chapter 259, O.S.L. 2013 (47 O.S. Supp.
16 2014, Section 6-205.2), is amended to read as follows:

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

- 19 1. A nonvacated adjudication of guilt;
- 20 2. A determination that a person has violated or failed to
21 comply with this section in any court or by the Department of Public
22 Safety following an administrative determination;
- 23 3. A nonvacated forfeiture of bail or collateral deposited to
24 secure a person's appearance in court;

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

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

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

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

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

16 2. Refusing to submit to a test for determination of alcohol
17 concentration, as required by Section 751 of this title, or as
18 required by the state in which the arrest occurred, while operating
19 a Class A, B or C commercial motor vehicle, or if the person is the
20 holder of a commercial driver license, committing the offense while
21 operating any vehicle;

22 3. Driving or being in actual physical control of a Class A, B
23 or C commercial motor vehicle while under the influence of alcohol
24 or any other intoxicating substance or the combined influence of

1 alcohol and any other intoxicating substance, or if the person is
2 the holder of a commercial driver license, committing the offense
3 while operating any vehicle. Provided, the Department shall not
4 additionally disqualify, pursuant to this subsection, if the
5 person's driving privilege has been disqualified in this state
6 because of a test result or test refusal pursuant to paragraph 1 or
7 2 of this subsection as a result of the same violation arising from
8 the same incident;

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

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

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

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

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

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

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

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

21 The Department of Public Safety may promulgate rules
22 establishing conditions under which a disqualification for life
23 pursuant to the provisions of this subsection may be reduced to a
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1 period of not less than ten (10) years provided a previous lifetime
2 disqualification has not been reduced.

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

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

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

- 4 1. Speeding fifteen (15) miles per hour or more over the limit;
- 5 2. Reckless driving;
- 6 3. Any traffic offense committed that results in or in
7 conjunction with a motor vehicle collision resulting in a fatality;
- 8 4. Erratic or unsafe lane changes;
- 9 5. Following too closely;
- 10 6. Failure to obtain a commercial driver license;
- 11 7. Failure to have in possession of the person a commercial
12 driver license;
- 13 8. Failure to have:
 - 14 a. the proper class of commercial driver license for the
15 class of vehicle being operated,
 - 16 b. the proper endorsement or endorsements for the type of
17 vehicle being operated, including but not limited to,
18 passengers or type of cargo being transported, or
 - 19 c. both proper class and proper endorsement, as provided
20 in subparagraphs a and b of this paragraph; ~~or~~
- 21 9. Operating a commercial motor vehicle while using a cellular
22 telephone or electronic communication device to write, send or read
23 a text-based communication ~~while the commercial motor vehicle is in~~
24 motion; or

1 10. Operating a commercial motor vehicle while using a hand-
2 held mobile telephone.

3 For the purposes of paragraphs 9 and 10 of this subsection,
4 operating a commercial motor vehicle and using an electronic
5 communication device or a hand-held mobile telephone is permissible
6 by the operator when necessary to communicate with law enforcement
7 officials or other emergency services. Further, for the purposes of
8 paragraphs 9 and 10 of this subsection, "operate" means operating on
9 a street or highway, including while temporarily stationary because
10 of traffic, a traffic control device or other momentary delays.

11 Operating does not include when the driver of a commercial motor
12 vehicle has moved the vehicle to the side of or off a street or
13 highway and has halted in a location where the vehicle can safely
14 remain stationary.

15 G. Upon the receipt of a person's record of conviction of
16 violating a lawful out-of-service order, when the conviction becomes
17 final the Department shall disqualify the driving privilege of the
18 person as follows:

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

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

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

9 a. except as provided in subparagraph b of this
10 paragraph, the period of disqualification shall be for
11 ~~one (1) year~~ two (2) years, or

12 b. while transporting hazardous materials required to be
13 placarded under the Hazardous Materials Transportation
14 Act, 49 P. app. 180-1813, or while operating a motor
15 vehicle designed for transport of sixteen (16) or more
16 passengers, including the driver, the period of
17 disqualification shall be for three (3) years; and

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

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

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

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

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

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

22 3. The third or subsequent conviction within three (3) years
23 shall result in disqualification for one (1) year.
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1 K. The Department, upon receipt of a written notice of
2 immediate disqualification issued by the Federal Motor Carrier
3 Safety Administration under 49 CFR 383.52, shall immediately
4 disqualify the person's commercial driving privilege for the period
5 of time specified on the written notice.

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

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

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

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

1 Section 11-901c. A. It shall be unlawful for any person to
2 operate a commercial motor vehicle or for a public transit driver to
3 operate a motor vehicle on any street or highway within this state
4 while using:

5 1. Using a cellular telephone or electronic communication
6 device to write, send, or read a text-based communication ~~while the~~
7 ~~motor vehicle is in motion; or~~

8 2. Using a hand-held mobile telephone while operating a
9 commercial motor vehicle.

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

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

17 C. As used in this section:

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

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

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

9 4. "Public transit driver" means:

- 10 a. any operator of a public transit vehicle owned and
11 operated by the State of Oklahoma, any public trust
12 authority, county, municipality, town or city within
13 this state,
14 b. any operator of a school bus or multi-passenger motor
15 vehicle owned and approved to operate by the State
16 Department of Education or any school district within
17 this state, or
18 c. any operator, conductor or driver of a locomotive
19 engine, railway car or train of cars; and

20 ~~4.~~ 5. "Write, send, or read a text-based communication", also
21 known as texting, means manually entering alphanumeric text into,
22 sending text, or reading text from, an electronic device, and
23 includes, but is not limited to, short message service (SMS), e-
24 mailing, instant messaging (IM), a command or request to access a

1 World Wide Web page, or engaging in any other form of electronic
2 text retrieval or entry, for present or future communication. As
3 used in this paragraph, texting does not include:

4 a. using voice commands to select or enter a telephone
5 number, an extension number, or voicemail retrieval
6 codes and commands into an electronic device for the
7 purpose of initiating or receiving a phone call,

8 b. inputting, selecting, or reading information on a
9 global positioning system or navigation system, or

10 c. using a device capable of performing multiple
11 functions for a purpose that is not otherwise
12 prohibited in this part, including, but not limited
13 to, fleet management systems, dispatching devices,
14 smart phones, citizens band radios, and music players.

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

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

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