

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 73, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Shaw

Shaw-BH-FS-Req#1550
2/28/2017 2:22 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 73

By: Shaw of the Senate

and

West (Josh) of the House

FLOOR SUBSTITUTE

An Act relating to boating under the influence of alcohol; amending 47 O.S. 2011, Section 6-205, as amended by Section 1, Chapter 279, O.S.L. 2013 (47 O.S. Supp. 2016, Section 6-205), which relates to mandatory revocation of driving privilege; providing for the revocation of driving privilege under certain circumstances; amending 63 O.S. 2011, Section 4210.8, which relates to operation of a vessel under the influence of alcohol; modifying certain penalty to include driver license revocation; providing an exception; adding definition; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 6-205, as amended by Section 1, Chapter 279, O.S.L. 2013 (47 O.S. Supp. 2016, Section 6-205), is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall immediately revoke the driving privilege of any person, whether adult or juvenile, upon receiving a record of conviction in any

1 municipal, state or federal court within the United States of any of
2 the following offenses, when such conviction has become final:

3 1. Manslaughter or negligent homicide resulting from the
4 operation of a motor vehicle;

5 2. Driving or being in actual physical control of a motor
6 vehicle while under the influence of alcohol, any other intoxicating
7 substance, or the combined influence of alcohol and any other
8 intoxicating substance, any violation of paragraph 1, 2, 3 ~~or~~, 4 or
9 5 of subsection A of Section 11-902 of this title or any violation
10 of Section 11-906.4 of this title. However, the Department shall
11 not additionally revoke the driving privileges of the person
12 pursuant to this subsection if the driving privilege of the person
13 has been revoked because of a test result or test refusal pursuant
14 to Section 753 or 754 of this title arising from the same
15 circumstances which resulted in the conviction unless the revocation
16 because of a test result or test refusal is set aside;

17 3. Any felony during the commission of which a motor vehicle is
18 used;

19 4. Failure to stop and render aid as required under the laws of
20 this state in the event of a motor vehicle accident resulting in the
21 death or personal injury of another;

22 5. Perjury or the making of a false affidavit or statement
23 under oath to the Department under the Uniform Vehicle Code or under
24

1 any other law relating to the ownership or operation of motor
2 vehicles;

3 6. A misdemeanor or felony conviction for unlawfully
4 possessing, distributing, dispensing, manufacturing, trafficking,
5 cultivating, selling, transferring, attempting or conspiring to
6 possess, distribute, dispense, manufacture, traffic, sell, or
7 transfer of a controlled dangerous substance as defined in the
8 Uniform Controlled Dangerous Substances Act while using a motor
9 vehicle;

10 7. Failure to pay for gasoline pumped into a vehicle pursuant
11 to Section 1740 of Title 21 of the Oklahoma Statutes;

12 8. A misdemeanor conviction for a violation of Section 1465 of
13 Title 21 of the Oklahoma Statutes;

14 9. A misdemeanor conviction for a violation of Section 609 of
15 Title 37 of the Oklahoma Statutes;

16 10. Failure to obey a traffic control device as provided in
17 Section 11-202 of this title or a stop sign when such failure
18 results in great bodily injury to any other person; ~~or~~

19 11. Failure to stop or to remain stopped for school bus loading
20 or unloading of children pursuant to Section 11-705 or 11-705.1 of
21 this title; or

22 12. Operating or being in actual physical control of a vessel
23 upon the waters of this state, except while on privately-owned
24 waters, while under the influence of alcohol, any other intoxicating

1 substance or the combined influence of alcohol and any other
2 intoxicating substance as provided in Section 4210.8 or Title 63 of
3 the Oklahoma Statutes.

4 B. The first license revocation under any provision of this
5 section, except for paragraph 2, 6, 7 ~~or~~, 11 or 12 of subsection A
6 of this section, shall be for a period of one (1) year. Such period
7 shall not be modified.

8 C. A license revocation under any provision of this section,
9 except for paragraph 2, 6, ~~or~~ 7 or 12 of subsection A of this
10 section, shall be for a period of three (3) years if a prior
11 revocation under this section, except under paragraph 2 of
12 subsection A of this section, commenced within the preceding five-
13 year period as shown by the records of the Department. Such period
14 shall not be modified.

15 D. The period of license revocation under paragraph 2 or 6 of
16 subsection A of this section shall be governed by the provisions of
17 Section 6-205.1 of this title.

18 E. The first license revocation under paragraph 7 of subsection
19 A of this section shall be for a period of six (6) months. A second
20 or subsequent license revocation under paragraph 7 of subsection A
21 of this section shall be for a period of one (1) year. Such periods
22 shall not be modified.

23 F. The first license revocation under paragraph 11 of
24 subsection A of this section shall be for a period of one (1) year.

1 Such period may be modified. Any appeal of the revocation of
2 driving privilege under paragraph 11 of subsection A of this section
3 shall be governed by Section 6-211 of this title, provided any
4 modification under this subsection shall apply to Class D motor
5 vehicles only.

6 G. The first license revocation under paragraph 12 of
7 subsection A of this section shall be for a period of thirty (30)
8 days. A second license revocation under paragraph 12 of subsection
9 A of this section shall be for a period of sixty (60) days. A third
10 or subsequent license revocation under paragraph 12 of subsection A
11 of this section shall be for a period of ninety (90) days. Such
12 periods shall not be modified.

13 H. As used in this section, "great bodily injury" means bodily
14 injury which creates a substantial risk of death or which causes
15 serious, permanent disfigurement or protracted loss or impairment of
16 the function of any bodily member or organ.

17 SECTION 2. AMENDATORY 63 O.S. 2011, Section 4210.8, is
18 amended to read as follows:

19 Section 4210.8. A. It shall be unlawful for any person to
20 operate or be in actual physical control of a vessel upon the waters
21 of this state, except privately owned waters, who:

22 1. Has a blood or breath alcohol concentration of eight-
23 hundredths (0.08) or more at the time of a test of the person's
24 blood or breath;

1 2. Is under the influence of any other intoxicating substance
2 to a degree which renders such person incapable of safely operating
3 a vessel upon the waters of this state; or

4 3. Is under the influence of alcohol and any other intoxicating
5 substance to a degree which renders such person incapable of safely
6 operating a vessel upon the waters of this state.

7 As used in this section, "other intoxicating substance" means
8 any controlled dangerous substance as defined in the Uniform
9 Controlled Dangerous Substances Act or any other substance, other
10 than alcohol, which is capable of being ingested, inhaled, injected
11 or absorbed into the human body and is capable of adversely
12 affecting the central nervous system, vision, hearing or other
13 sensory or motor functions.

14 B. 1. Any person operating a vessel upon the waters of this
15 state, except privately owned waters, shall be deemed to have given
16 consent to a test or tests of such person's blood, breath, saliva or
17 urine for the purpose of determining the presence and concentration
18 of alcohol or any other intoxicating substance. Such tests shall be
19 performed within two (2) hours of an arrest and in the same manner
20 as provided for in Section 752 of Title 47 of the Oklahoma Statutes.

21 2. Evidence that the person has refused to submit to a test or
22 tests as required by this section shall be admissible upon the trial
23 of any criminal action or proceeding arising out of acts alleged to
24 have been committed in violation of the provisions of this section.

1 3. Any person refusing to submit to such test or tests shall be
2 in violation of this section and subject to the fines provided for
3 herein.

4 C. 1. Any person convicted of a violation of this section
5 shall be guilty of a misdemeanor and fined in an amount not to
6 exceed One Thousand Dollars (\$1,000.00). Any second or subsequent
7 conviction shall be punishable by a fine in an amount of not less
8 than One Thousand Dollars (\$1,000.00), nor more than Two Thousand
9 Five Hundred Dollars (\$2,500.00).

10 2. A person arrested by a law enforcement officer for a
11 violation of this section may be allowed to post a cash bail in an
12 amount set by the arresting law enforcement officer not to exceed
13 the maximum fine provided by this section, or deposit a valid
14 license to operate a motor vehicle in exchange for an official
15 receipt issued by the arresting officer as provided for in Section
16 1111 et seq. of Title 22 of the Oklahoma Statutes.

17 D. In addition to any penalty imposed pursuant to the
18 provisions of this section, the person shall be subject to the
19 mandatory revocation of driving privileges pursuant to subsection G
20 of Section 6-205 of Title 47 of the Oklahoma Statutes, which
21 revocation periods shall not be modified.

22 E. The consumption of alcohol or the possession of an open
23 container of alcohol aboard a vessel does not in and of itself
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1 constitute probable cause that the person committed the offense of
2 boating while under the influence of alcohol.

3 F. For purposes of this section, "vessel" means any device
4 operated upon water that is propelled by machinery, whether or not
5 the machinery is the principal source of propulsion and includes
6 personal watercraft as such term is defined in Section 4201 of this
7 title.

8 SECTION 3. This act shall become effective November 1, 2017.

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10 56-1-1550 BH 2/28/2017 2:22:30 PM
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