

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 ENGROSSED SENATE
5 BILL NO. 1116

 By: Daniels and Bergstrom of
 the Senate

6 and

7 Frix of the House

8
9 An Act relating to commercial motor vehicles;
10 amending 47 O.S. 2021, Section 6-205.2, which relates
11 to disqualifications from driving privileges for
12 certain convictions or acts; disqualifying certain
13 persons from operating certain commercial motor
14 vehicles; updating statutory reference; and providing
15 an effective date.

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

17 SECTION 1. AMENDATORY 47 O.S. 2021, Section 6-205.2, is
18 amended to read as follows:

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

- 21 1. A nonvacated adjudication of guilt;
- 22 2. A determination that a person has violated or failed to
23 comply with this section in any court or by the Department of Public
24 Safety following an administrative determination;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 C. 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 three (3) years upon receiving a record of
14 conviction of any of the disqualifying offenses described in
15 subsection B of this section, committed in connection with the
16 operation of a motor vehicle which is required to be placarded for
17 hazardous materials under 49 C.F.R., Part 172, subpart F, when the
18 conviction has become final.

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

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

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

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

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

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

10 2. Reckless driving;

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

13 4. Erratic or unsafe lane changes;

14 5. Following too closely;

15 6. Failure to obtain a commercial driver license;

16 7. Failure to have in possession of the person a commercial
17 driver license;

18 8. Failure to have:

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

21 b. the proper endorsement or endorsements for the type of
22 vehicle being operated, including but not limited to,
23 passengers or type of cargo being transported, or
24

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

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; or

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

8 For the purposes of paragraphs 9 and 10 of this subsection,
9 operating a commercial motor vehicle and using an electronic
10 communication device or a hand-held mobile telephone is permissible
11 by the operator when necessary to communicate with law enforcement
12 officials or other emergency services. Further, for the purposes of
13 paragraphs 9 and 10 of this subsection, "operate" means operating on
14 a street or highway~~7~~ including while temporarily stationary because
15 of traffic, a traffic control device or other momentary delays.
16 Operating does not include when the driver of a commercial motor
17 vehicle has moved the vehicle to the side of or off a street or
18 highway and has halted in a location where the vehicle can safely
19 remain stationary.

20 G. Upon the receipt of a person's record of conviction of
21 violating a lawful out-of-service order, when the conviction becomes
22 final the Department shall disqualify the driving privilege of the
23 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 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~~ 49 U.S.C.A. Section 5103 et
9 seq., or while operating a motor vehicle designed for
10 transport of sixteen (16) or more passengers,
11 including the driver, the period of disqualification
12 shall be for one (1) year;

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

- 15 a. except as provided in subparagraph b of this
16 paragraph, the period of disqualification shall be for
17 two (2) years, or
18 b. while transporting hazardous materials required to be
19 placarded under the Hazardous Materials Transportation
20 Act, ~~49 P. app. 180-1813~~ 49 U.S.C.A. Section 5103 et
21 seq., or while operating a motor vehicle designed for
22 transport of sixteen (16) or more passengers,
23 including the driver, the period of disqualification
24 shall be for three (3) years; and

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. This act shall become effective November 1, 2022.

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6 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
7 dated 03/31/2022 - DO PASS.
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