

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1607

By: Sherrer

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5
6 AS INTRODUCED

7 An Act relating to driving under the influence;
8 amending 47 O.S. 2011, Section 751, which relates to
9 implied consent to breath or blood test; directing
10 law enforcement to provide certain notification; and
11 providing an effective date.

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

13 SECTION 1. AMENDATORY 47 O.S. 2011, Section 751, is
14 amended to read as follows:

15 Section 751. A. 1. Any person who operates a motor vehicle
16 upon the public roads, highways, streets, turnpikes or other public
17 place or upon any private road, street, alley or lane which provides
18 access to one or more single or multi-family dwellings within this
19 state shall be deemed to have given consent to a test or tests of
20 such person's blood or breath, for the purpose of determining the
21 alcohol concentration as defined in Section 756 of this title, and
22 such person's blood, saliva or urine for determining the presence or
23 concentration of any other intoxicating substance therein as defined
24 in this section, if arrested for any offense arising out of acts

1 alleged to have been committed while the person was operating or in
2 actual physical control of a motor vehicle upon the public roads,
3 highways, streets, turnpikes or other public place or upon any
4 private road, street, alley or lane which provides access to one or
5 more single or multi-family dwellings while under the influence of
6 alcohol or other intoxicating substance, or the combined influence
7 of alcohol and any other intoxicating substance, or if the person is
8 involved in a traffic accident that resulted in the immediate death
9 or serious injury of any person and is removed from the scene of the
10 accident to a hospital or other health care facility outside the
11 State of Oklahoma before a law enforcement officer can effect an
12 arrest.

13 2. A law enforcement officer, having reasonable grounds to
14 believe that such person was operating or in actual physical control
15 of a motor vehicle while under the influence may direct the
16 administration of or administer the test or tests.

17 3. Before a test or tests are administered, the person shall be
18 given oral and written notice that:

19 a. Oklahoma law requires the person to submit to and
20 complete one or more tests of breath, blood or urine
21 to determine if the person is under the influence of
22 alcohol, any other intoxicating substance, or the
23 combined influence of alcohol and any other
24 intoxicating substance, and

1 b. if the person refuses to submit to and complete any
2 test of breath, blood or urine as requested by the law
3 enforcement officer, the driving privileges of the
4 person will be automatically revoked and the person
5 will be required to have an ignition interlock device
6 installed on the motor vehicle of the person for not
7 less than eighteen (18) months following the mandatory
8 period of revocation.

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

16 B. The law enforcement agency by which the arresting officer is
17 employed may designate, in accordance with the rules of the Board of
18 Tests for Alcohol and Drug Influence, hereinafter referred to as the
19 Board, whether blood or breath is to be tested for the alcohol
20 concentration thereof, and whether blood, saliva or urine is to be
21 tested for the presence or concentration of any other intoxicating
22 substance therein.

23 In the event the law enforcement agency does not designate the
24 test to be administered, breath shall be the substance tested for

1 alcohol concentration. Blood may also be tested to determine the
2 alcohol concentration thereof in the event that breath cannot be
3 tested to determine the alcohol concentration thereof because of the
4 lack of an approved device or qualified person to administer a
5 breath test or because such breath test for any other reason cannot
6 be administered in accordance with the rules of the Board.

7 In the event the law enforcement agency does not designate the
8 test to be administered, blood, saliva or urine shall be the
9 substance tested for the presence or concentration of any other
10 intoxicating substance or the combination of alcohol and any other
11 intoxicating substance.

12 C. In the event the person is incapable of submitting to and
13 successfully completing, by reason of illness or injury or other
14 physical disability, the test to be administered, an alternate test
15 may be administered in accordance with the rules of the Board.

16 D. Any person who is unconscious or otherwise incapable of
17 refusing to submit to a test of such person's blood or breath to
18 determine the alcohol concentration thereof, or to a test of such
19 person's blood, saliva or urine to determine the presence or
20 concentration of any other intoxicating substance therein, shall be
21 deemed not to have withdrawn the consent provided by subsection A of
22 this section, and such test may be administered as provided herein.

23 An unconscious person who has been issued a citation by a law
24 enforcement officer for one of the offenses listed in subsection A

1 of this section is arrested for purposes of this section. The
2 arresting officer must leave a copy of the citation with the
3 arrested person which may be accomplished by handing it to the
4 arrested person, or by leaving it with the personal effects of the
5 arrested party, so as to inform the unconscious person of the
6 arrest.

7 Any person who has been arrested for one of the offenses listed
8 in subsection A of this section who is unconscious or injured and
9 who requires immediate medical treatment as determined by a treating
10 physician may be released on the person's own recognizance for
11 medical reasons by the arresting officer. The arresting officer who
12 releases an arrested person on the person's own recognizance must
13 indicate the release on the face of the citation. Any person
14 released on his or her own recognizance for medical reasons shall
15 remain at liberty pending the filing of charges.

16 E. In addition to any test designated by the arresting officer,
17 the arrested person may also designate any additional test to be
18 administered to determine the concentration of alcohol, or the
19 presence or concentration of any other intoxicating substance or the
20 combination of alcohol and any other intoxicating substance. The
21 cost of such additional test shall be at the expense of the arrested
22 person.

23 A sufficient quantity of any specimen obtained at the
24 designation of the arrested person shall be available to the law

1 enforcement agency employing the arresting officer. Such specimens
2 shall be treated in accordance with the rules applicable to the
3 specimens obtained by an arresting officer.

4 F. When a law enforcement officer has determined that the blood
5 alcohol content of an individual is to be tested for the presence or
6 concentration of alcohol, other intoxicating substance, or the
7 combination of alcohol and any other intoxicating substance, the law
8 enforcement officer shall inform the individual to be tested that
9 the withdrawal of blood shall only be performed by certain medical
10 personnel as provided for in Section 752 of this title.

11 SECTION 2. This act shall become effective November 1, 2015.

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