

An Act

ENROLLED SENATE
BILL NO. 643

By: David and Rader of the
Senate

and

Biggs of the House

An Act relating to impaired driving; creating the Impaired Driving Elimination Act 2 (IDEA2); stating purpose of IDEA2; amending 47 O.S. 2011, Section 2-116, which relates to notice requirements; clarifying notice procedures; updating language; amending 47 O.S. 2011, Sections 6-204, 6-205, as amended by Section 1, Chapter 279, O.S.L. 2013, 6-205.1, as amended by Section 1, Chapter 393, O.S.L. 2013, 6-212, as last amended by Section 3, Chapter 97, O.S.L. 2015 and 6-212.3, as last amended by Section 2, Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016, Sections 6-205, 6-205.1, 6-212 and 6-212.3), which relate to revocation and reinstatement of driver licenses; requiring surrender of driver license under certain circumstances; establishing time limitation for forwarding certain records; directing notice of deferred prosecution agreement be forwarded to Department of Public Safety; providing exemption from certain confidentiality requirement; expanding scope of driver license revocation requirements to include persons who receive certain sentences; deleting certain driver license revocation exception; adding internal statutory citation; deleting certain modification exception; providing exception to revocation requirement; increasing revocation periods; authorizing modified driver licenses under certain specified conditions and time periods; adding conditions for certain driver license reinstatement requirements; deleting outdated reinstatement fee obligation; directing Department of Public Safety to

establish Impaired Driver Accountability Program (IDAP); directing deposit of fees to certain revolving fund; providing for the promulgation of rules; authorizing Department to enter into IDAP program agreements under certain conditions; establishing program time limitations for persons participating in IDAP; deleting ignition interlock device requirements for persons subject to revocation or classified as excessive users of alcohol; authorizing revocation, suspension or restriction of driving privileges for ignition interlock violations; deleting certain prerequisites and conditions for reinstatement of driving privileges; deleting restricted driver license fees and issuance procedures; deleting ignition interlock installation requirements and fees; deleting revocation condition and requirement to promulgate certain rules; authorizing issuance of restricted driver license upon payment of fee; stating conditions of restricted driver licenses; amending 47 O.S. 2011, Section 11-902a, which relates to vehicle use without ignition interlock device; providing penalties; modifying elements of offense; making certain acts unlawful; making installation of ignition interlock device a condition of bond under certain circumstances; providing time limitations and restrictions; authorizing removal of ignition interlock device upon successful completion of IDAP; amending 47 O.S. 2011, Sections 751, 752, 753, as amended by Section 1, Chapter 131, O.S.L. 2015, 754, 754.1, as last amended by Section 4, Chapter 393, O.S.L. 2013 and 756 (47 O.S. Supp. 2016, Sections 753 and 754.1), which relate to procedures for testing the presence of alcohol or other intoxicating substances; deleting test designation requirement; clarifying and deleting procedures relating to breath and blood tests; deleting blood withdrawal notification requirement; modifying list of persons authorized to withdraw blood; updating language; deleting requirement that law enforcement retain sufficient quantity of excess breath for purposes of independent analysis; deleting certain driver license revocation and reinstatement

requirements; making certain acts unlawful; providing penalty; clarifying instances in which a driver license may be seized by law enforcement; directing delivery of certain evidence to Department of Public Safety; requiring destruction of evidence; increasing time limitation for arrested persons to operate motor vehicle; deleting revocation and administrative hearing procedures; clarifying and deleting procedures related to revocation modifications and denials of driving privileges; providing list of reports deemed admissible in criminal trials or proceedings related to driving under the influence; stating evidentiary and admissibility requirements for documents and reports related to instruments used to measure alcohol concentration; repealing 47 O.S. 2011, Section 755, which relates to procedures for filing appeals; providing for noncodification; and providing an effective date.

SUBJECT: Driving under the influence offenses

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Impaired Driving Elimination Act 2 (IDEA2)".

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The purpose of the Impaired Driving Elimination Act and its amendments is to recognize that it is in the best interests of the citizens of the State of Oklahoma to have effective and meaningful administrative monitoring by the Department of Public Safety of impaired driving offenders. An accelerated process to hold these offenders immediately accountable through the restriction of their

driving privileges, and the restoration of those driving privileges through compliance criteria developed by the Department of Public Safety, will help ensure the safety of all citizens who utilize the roads, streets and highways of the State of Oklahoma.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 2-116, is amended to read as follows:

Section 2-116. Whenever the Department of Public Safety is authorized or required to give any notice ~~under this act or other law regulating the operation of vehicles,~~ unless a different method of giving such notice is otherwise expressly prescribed, or agreed upon in writing by the Department and the person receiving notice, such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of such notice in an envelope with first class postage prepaid, addressed to such person at the mailing address as shown by the records of the Department. The giving of notice by mail is complete upon the expiration of ten (10) days after ~~such~~ deposit of ~~said~~ the notice in the United States mail. Proof of the giving of notice in either such manner may be made by the certificate of any officer or employee of the Department or affidavit of any person over eighteen (18) years of age, naming the person to whom such notice was given and specifying the ~~time~~ date, place and manner of the giving ~~thereof~~ of notice. Failure of the person to receive notice because of failure to notify the Department of a change in his or her current mailing address, as required by Section 6-116 of this title, or as required by the rules of the Department, shall not be sufficient grounds ~~for the person to protest the~~ to invalidate the giving of notice.

SECTION 4. AMENDATORY 47 O.S. 2011, Section 6-204, is amended to read as follows:

Section 6-204. A. Whenever any person is convicted of, or receives a deferred sentence for any offense for which this title makes mandatory the revocation of the driving privilege of such person by the Department as provided in Section 6-205 of this title, the court in which ~~such~~ the conviction or deferred sentence occurred may require the surrender to it of all ~~driver licenses~~ proof of driving privileges then held by the person so convicted or sentenced and the court shall thereupon forward the same together with a

record of such conviction or deferred sentence to the Department within five (5) days after the conviction or deferred sentence occurred.

B. Every court, including courts not of record, having jurisdiction over offenses committed under this act, or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the Department a record of the conviction of any person in such court for a violation of any such laws other than regulations governing standing or parking, and may recommend the suspension of the driving privileges of the person so convicted.

C. Whenever a person arrested for any offense for which this title makes mandatory the revocation of the driving privilege of such person by the Department of Public Safety as provided in Section 6-205 of this title, and enters into a deferred prosecution agreement related to such offense, the prosecutor shall forward to the Department of Public Safety notice of the deferred prosecution agreement. The notice of a deferred prosecution agreement provided to the Department of Public Safety shall not be a violation of Section 305.5 of Title 22 of the Oklahoma Statutes.

D. For the purposes of Section 6-101 et seq. of this title, the term "conviction" shall mean a final conviction or shall mean a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated.

SECTION 5. 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 who,~~ in any municipal, state or federal court within the United States, receives a deferred sentence, or a conviction, when such conviction has become final, or a deferred prosecution, for ~~of~~ any of the following offenses, when such conviction has become final:

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

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

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

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

5. Perjury or the making of a false affidavit or statement under oath to the Department under the Uniform Vehicle Code or under any other law relating to the ownership or operation of motor vehicles;

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

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

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

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

10. Failure to obey a traffic control device as provided in Section 11-202 or 11-703 of this title ~~or a stop sign~~ when such failure results in great bodily injury to any other person; or

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

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

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

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

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

F. The first license revocation under paragraph 11 of subsection A of this section shall be for a period of one (1) year. Such period may not be modified. Any appeal of the revocation of driving privilege under paragraph 11 of subsection A of this section shall be governed by Section 6-211 of this title, ~~provided any modification under this subsection shall apply to Class D motor vehicles only.~~

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

SECTION 6. AMENDATORY 47 O.S. 2011, Section 6-205.1, as amended by Section 1, Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016, Section 6-205.1), is amended to read as follows:

Section 6-205.1. A. The driving privilege of a person who is convicted of, or receives a deferred sentence, or deferred prosecution agreement for any offense as provided in paragraph 2 of subsection A of Section 6-205 of this title, ~~or a person who has refused to submit to a test or tests as provided in Section 753 of this title, or a person whose alcohol concentration is subject to the provisions of Section 754 of this title,~~ unless the person has successfully completed, or is currently participating in, the Impaired Driver Accountability Program in accordance with paragraph E of Section 6-212 of this title, shall be revoked or denied by the Department of Public Safety for the following period, as applicable:

1. The first license revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title ~~or to Section 753 or 754 of this title~~ shall be for ~~one hundred eighty (180) days~~ a minimum period of one (1) year, which may shall be modified; provided, any modification under this paragraph shall apply to Class D motor vehicles driver licenses only. Modification requires the issuance of a modified driver license and the continuous installation of an ignition interlock device or devices pursuant to Section 754.1 of this title for a period of not less than one (1) year immediately preceding reinstatement of the license. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, occurring within the last one hundred eighty (180) days of the revocation period, the revocation period shall be extended until such time the person completes a violation free one hundred eighty (180) day period;

2. A revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title, ~~or to Section 753 or 754 of this title~~ shall be for a ~~minimum period of one (1) year or longer if driving privileges are modified pursuant to the provisions of this paragraph~~

twenty-four (24) months, if within ten (10) years preceding the date of arrest relating thereto, as shown by the records of the Department:

- a. a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, ~~or to Section 753 or 754 of this title~~ a revocation because of a test result or test refusal, or previous enrollment or completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title, or
- b. the record of the person reflects a prior conviction in another jurisdiction which did not result in a revocation of Oklahoma driving privileges, for a violation substantially similar to paragraph 2 of subsection A of Section 6-205 of this title, and the person was not a resident or a licensee of Oklahoma at the time of the offense resulting in the conviction.

Such ~~one-year~~ twenty-four-month period of revocation ~~may~~ shall be modified; provided, any modification under this paragraph shall apply to Class D ~~motor vehicles~~ driver licenses only. ~~For any modification, the person shall be required to install~~ Modification shall require the issuance of a modified driver license and the installation of an ignition interlock device or devices, pursuant to Section 754.1 of this title. ~~The period of revocation and the period of interlock installation shall run concurrently and each shall be for no less than one (1) year~~ for a continuous period of not less than twenty-four (24) months immediately preceding reinstatement of the license. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, occurring within the last twelve (12) months of the revocation period, the revocation period shall be extended until such time the person completes a violation free twelve-month period; or

3. A revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title, ~~or to Section 753 or 754 of this title~~ a revocation because of a test result or test refusal shall be for a minimum period of three (3) years or longer forty-eight (48) months if driving privileges are modified pursuant to the provisions of

~~this paragraph~~ if within ten (10) years preceding the date of arrest relating thereto, as shown by the records of the Department:

- a. two or more prior revocations commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, or revocations because of a test result or test refusal to Section 753 or 754 of this title, or previous completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title,
- b. the record of the person reflects two or more prior convictions in another jurisdiction which did not result in a revocation of Oklahoma driving privileges, for a violation substantially similar to paragraph 2 of subsection A of Section 6-205 of this title, and the person was not a resident or a licensee of Oklahoma at the time of the offense resulting in the conviction, or
- c. any combination of two or more prior revocations, or previous completion of the Impaired Driver Accountability Program, or convictions as described in subparagraphs a and b of this paragraph.

Such ~~three-year~~ forty-eight-month period of revocation ~~may~~ shall be modified; provided, any modification under this paragraph shall apply to Class D ~~motor vehicles~~ driver licenses only. ~~For any modification, the person shall be required to install~~ Modification requires the issuance of a modified driver license and the installation of an ignition interlock device or devices, pursuant to Section 754.1 of this title. The period of revocation and the period of interlock installation shall run concurrently and each shall be for no less than three (3) years for a continuous period of not less than forty-eight (48) months immediately preceding reinstatement of the license. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, occurring within the last twenty-four (24) months of the revocation period, the revocation period shall be extended until such time the person completes a violation free twenty-four-month period.

B. The driving privilege of a person who is convicted of any offense as provided in paragraph 6 of subsection A of Section 6-205 of this title shall be revoked or denied by the Department of Public Safety for the following period, as applicable:

1. The first license revocation shall be for one hundred eighty (180) days, which may be modified; provided, for license revocations for a misdemeanor charge of possessing a controlled dangerous substance, the provisions of this paragraph shall apply to any such revocations by the Department on or after January 1, 1993; provided further, any modification under this paragraph shall apply to Class D motor vehicles only;

2. A revocation shall be for a period of one (1) year if within ten (10) years preceding the date of arrest relating thereto, as shown by the records of the Department:

- a. a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, or ~~under Section 753 or 754 of this title~~ a revocation because of a test result or test refusal, previous participation or completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title, or
- b. the record of the person reflects a prior conviction in another jurisdiction which did not result in a revocation of Oklahoma driving privileges, for a violation substantially similar to paragraph 2 or 6 of subsection A of Section 6-205 of this title, and the person was not a resident or a licensee of Oklahoma at the time of the offense resulting in the conviction.

Such period shall not be modified; or

3. A revocation shall be for a period of three (3) years if within ten (10) years preceding the date of arrest relating thereto, as shown by the records of the Department:

- a. two or more prior revocations commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, or ~~under Section 753 or 754 of this title~~

a revocation because of a test result or test refusal, previous participation or completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title,

- b. the record of the person reflects two or more prior convictions in another jurisdiction which did not result in a revocation of Oklahoma driving privileges, for a violation substantially similar to paragraph 2 or 6 of subsection A of Section 6-205 of this title, and the person was not a resident or licensee of Oklahoma at the time of the offense resulting in the conviction, or
- c. any combination of two or more prior revocations as described in subparagraphs a and b or this paragraph.

Such period shall not be modified.

The revocation of the driving privilege of any person under this subsection shall not run concurrently with any other withdrawal of driving privilege resulting from a different incident and which requires the driving privilege to be withdrawn for a prescribed amount of time. A denial based on a conviction of any offense as provided in paragraph 6 of subsection A of Section 6-205 of this title shall become effective on the first day the convicted person is otherwise eligible to apply for and be granted driving privilege if the person was not eligible to do so at the time of the conviction.

C. For the purposes of this subsection:

- 1. The term "conviction" includes a juvenile delinquency adjudication by a court or any notification from a court pursuant to Section 6-107.1 of this title; and
- 2. The term "revocation" includes a denial of driving privileges by the Department.

D. Each period of revocation not subject to modification shall be mandatory and neither the Department nor any court ~~shall~~ may grant driving privileges ~~based upon hardship or otherwise~~ for the

duration of that period. Each period of revocation, subject to modification as provided for in this section, ~~may~~ shall be modified as provided for in Section 754.1 ~~or 755~~ of this title; provided, any modification under this paragraph shall apply to Class D ~~motor vehicles~~ driver licenses only.

E. Any appeal of a revocation or denial of driving privileges shall be governed by Section 6-211 of this title.

SECTION 7. AMENDATORY 47 O.S. 2011, Section 6-212, as last amended by Section 3, Chapter 97, O.S.L. 2015 (47 O.S. Supp. 2016, Section 6-212), is amended to read as follows:

Section 6-212. A. The Department of Public Safety shall not assess and collect multiple reinstatement fees when reinstating the driving privilege of any person having more than one suspension or revocation affecting the person's driving privilege at the time of reinstatement.

B. The Department shall:

1. Suspend or revoke a person's driving privilege ~~for each basis~~ as delineated within the Oklahoma Statutes; and

2. Require any person having more than one suspension or revocation affecting the person's driving privilege to meet the statutory requirements for each action as a condition precedent to the reinstatement of any driving privilege. Provided, however, reinstatement fees shall not be cumulative, and a single reinstatement fee, as provided for in subsection C of this section, shall be paid for all suspensions or revocations as shown by the Department's records at the time of reinstatement.

C. Whenever a person's privilege to operate a motor vehicle is suspended or revoked pursuant to any provision as authorized by the Oklahoma Statutes, the license or privilege to operate a motor vehicle shall remain under suspension or revocation and shall not be reinstated until:

1. The expiration of each such revocation or suspension order and the satisfaction of all terms and conditions of the revocation;

2. The person has paid to the Department:

- a. if such privilege is suspended or revoked pursuant to Section 1115.5 of Title 22 of the Oklahoma Statutes or pursuant to any provisions of this title, except as provided in subparagraph b of this paragraph, a processing fee of Twenty-five Dollars (\$25.00) for each such suspension or revocation as shown by the Department's records, or
- b. (1) if such privilege is suspended or revoked because of a test result or test refusal, or pursuant to the provisions of Section 6-205, 6-205.1, 7-612, ~~753, 754~~ or 761 of this title or pursuant to subsection A of Section 7-605 of this title for a conviction for failure to maintain the mandatory motor vehicle insurance required by law or pursuant to subsection B of Section 6-206 of this title for a suspension other than for points accumulation, a processing fee of Seventy-five Dollars (\$75.00) for each such suspension or revocation as shown by the Department's records, and a special assessment trauma-care fee of Two Hundred Dollars (\$200.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of Title 63 of the Oklahoma Statutes, for each suspension or revocation as shown by the records of the Department, and
- (2) in addition to any other fees required by this section, if such privilege is suspended or revoked pursuant to an arrest on or after November 1, 2008, under the provisions of paragraph 2 or 6 of subsection A of Section 6-205 of this title or of Section ~~753, 754, or~~ 761 of this title or because of a test result or test refusal, a fee of Fifteen Dollars (\$15.00), which shall be apportioned pursuant to the provisions of Section 3-460 of Title 43A of the Oklahoma Statutes; and

3. The person has paid to the Department a single reinstatement fee of:

a. ~~beginning on August 26, 2011, through June 30, 2013, Fifty Dollars (\$50.00), of which Twenty-five Dollars (\$25.00) shall be deposited by the Commissioner to the credit of the Department of Public Safety Revolving Fund and, in addition to other purposes authorized by law, the expenditures from that fund of monies derived from the Twenty-five Dollars (\$25.00) pursuant to this subparagraph shall be used to fund any Oklahoma Highway Patrol Trooper Academy provided by the Department. Any remaining funds shall be used for operational expenses of the Oklahoma Highway Patrol, and~~

b. beginning on July 1, 2013, and any year thereafter, Twenty-five Dollars (\$25.00).

D. The Department of Public Safety is hereby authorized to enter into agreements with persons whose license to operate a motor vehicle or commercial motor vehicle has been suspended or revoked, ~~except as to those suspensions, revocations, cancellations or denials made pursuant to paragraph 1 or 2 of subsection A of Section 6-205 of this title or to Section 753 or 754 of this title, for issuance of a provisional licenses~~ license that ~~would allow~~ allows such persons to drive:

1. Between their place of residence and their place of employment or potential employment;

2. During the scope and course of their employment;

3. Between their place of residence and a college, university or technology center;

4. Between their place of residence and their child's school or day care provider;

5. Between their place of residence and a place of worship; or

6. Between their place of residence and any court-ordered treatment program,

with the condition that such persons pay a minimum of Twenty-five Dollars (\$25.00) per month toward the satisfaction of all outstanding driver license or commercial driver license reinstatement fees. The Department shall develop rules and procedures to establish such a provisional driver license program and such rules and procedures shall include, but not be limited to, eligibility criteria, proof of insurance, proof of enrollment or employment, and any provisional license fees. Any violation of law by the person holding the provisional license that would result in the suspension or revocation of a driver license shall result in the revocation of the provisional license and such person shall be ineligible for future application for a provisional driver license.

E. No later than June 30, 2018, the Department shall establish the Impaired Driver Accountability Program (IDAP) at the Department of Public Safety. Fees collected by the Department for admission into the program shall be deposited in the Department of Public Safety Restricted Revolving Fund for support of the program. The Department shall promulgate rules necessary to implement the Impaired Driver Accountability Program.

F. The Department may enter into an IDAP program agreement with the person if:

1. The Department receives the request for IDAP participation pursuant to this section within fifteen (15) calendar days from the date reflected on the dated receipt issued by an officer to the person pursuant to subsection B of Section 754 of this title, on the form provided by the Department;

2. The Department receives payment of the Two Hundred Dollars (\$200.00) program administration fee within forty-five (45) days of the date notice was given pursuant to Section 2-116 of this title;

3. The Department receives the proof of installation of an ignition interlock device approved in accordance with the rules of the Board of Tests for Alcohol and Drug Influence within forty-five (45) days from the date notice was given pursuant to Section 2-116 of this title; and

4. The Department receives proof of the driving privileges of the person including, but not limited to, out-of-state driver licenses and licenses obtained at any time before or after entry into the program within forty-five (45) days from the date notice was given pursuant to Section 2-116 of this title.

G. Upon successful completion of the program, the driving record of the person will be updated to indicate their completion of the program without revocation and no reinstatement fee will be charged to the person.

H. The program length shall be:

1. A minimum of six (6) months for a person subject to revocation pursuant to paragraph 1 of subsection A of Section 6-205.1 of this title. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, within the last three (3) months of the program period, the program period shall be extended until such time the person completes a violation free three-month period;

2. A minimum of twelve (12) months for a person subject to revocation pursuant to paragraph 2 of subsection A of Section 6-205.1 of this title. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, within the last six (6) months of the program period, the program period shall be extended until such time the person completes a violation free six-month period;

3. A minimum of twenty-four (24) months for a person subject to revocation pursuant to paragraph 3 of subsection A of Section 6-205.1 of this title. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, within the last twelve (12) months of the program period, the program period shall be extended until such time the person completes a violation free twelve-month period.

I. Completion of the program is contingent upon the compliance of the person with the rules of the Department.

J. Effective July 1, 2002, and for each fiscal year thereafter:

1. Two Hundred Fifty Thousand Dollars (\$250,000.00) of all monies collected each month pursuant to this section shall be apportioned as provided in Section 1104 of this title, except as otherwise provided in this section; and

2. Except as otherwise provided in this section, all other monies collected in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) each month shall be deposited in the General Revenue Fund.

SECTION 8. AMENDATORY 47 O.S. 2011, Section 6-212.3, as last amended by Section 2, Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016, Section 6-212.3), is amended to read as follows:

~~Section 6-212.3. A. Whenever the records of the Department of Public Safety reflect the revocation of the driving privilege of a person as provided in subsection A of Section 6-205.1 of this title, the Department shall require the installation of an ignition interlock device, at the expense of the person, as provided in subsection D of this section, after the mandatory period of revocation, as prescribed by Section 6-205.1 of this title, for the following period, as applicable:~~

~~1. For a first revocation and if the person refused to submit to a test or tests, or had a blood or breath alcohol concentration of fifteen hundredths (0.15) or more, for a period of one and one-half (1 1/2) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer;~~

~~2. For a second revocation, for a period of four (4) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer; or~~

~~3. For a third or subsequent revocation, for a period of five (5) years following the mandatory period of revocation or until the~~

~~driving privileges of the person are reinstated, whichever is longer.~~

~~B. Whenever the records of the Department of Public Safety reflect a person is classified as an excessive user of alcohol or of a combination of alcohol and any other intoxicating substance, and inimical to public safety, in accordance with rules promulgated by the Department, the person shall, upon request for reinstatement of driving privileges from revocation or suspension based upon the conviction or the status as an excessive user, provide proof of installation of an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the expense of the person, as provided in subsection D of this section.~~

~~C. Whenever the installation of an ignition interlock device is allowed or required by law, the Department shall require, as a condition of reinstatement, the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the ~~person~~ employer to the Department; provided, a request shall not be accepted by the Department under the following circumstances:~~

1. When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle;

2. When the person is employed by a relative who is within the first degree of consanguinity or who resides in the same household;
or

3. When the person has had a prior revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title or ~~to Section 753 or 754 of this title~~ as a result of a test result or a test refusal.

The person shall comply with all provisions of law and rule regarding ignition interlock devices.

~~D. 1. The requirements of subsection A or B, as applicable, of this section shall be a prerequisite and condition for reinstatement of driving privileges, in addition to other conditions for driving privilege reinstatement provided by law or by rule of the Department. Upon request and eligibility, the Department shall issue a restricted driver license to the person, upon payment of a restricted driver license fee of Fifty Dollars (\$50.00) and all other appropriate fees by the person. The restricted driver license and the driving record of the person shall indicate by an appropriate restriction that the person is only authorized to operate a vehicle upon which an ignition interlock is installed. If the person is operating a motor vehicle owned or leased by an employer who has not given permission for an ignition interlock device to be installed, the employer shall provide the person with a letter, on official letterhead of the employer, which the person shall carry in his or her immediate possession at all times when operating a motor vehicle and shall display for examination and inspection upon demand of a peace officer.~~

~~2. The restricted driver license fee authorized by this section shall be remitted to the State Treasurer to be credited to the Department of Public Safety Restricted Revolving Fund. All monies accruing to the credit of the Department of Public Safety Restricted Revolving Fund from restricted driver license fees shall be budgeted and expended solely for the purpose of administering the provisions of this section.~~

~~3. The installation of an ignition interlock device, as required by this subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.~~

~~E. Installation of an ignition interlock device pursuant to subsection A or B of this section shall run concurrently with a court order, if any, for installation of an ignition interlock device, or devices pursuant to the same conviction.~~

~~F. The person shall pay the monthly maintenance fee, not to exceed Twenty five Dollars (\$25.00) per month, for each ignition interlock device installed pursuant to this section. The person shall comply with all provisions of law regarding ignition interlock devices.~~

~~G. The ignition interlock device provider shall make available to the Department regular reports of violations, if any, for each ignition interlock device installed pursuant to this section.~~

~~H. Pursuant to Section 6-113 of this title, the Department may revoke or suspend the driving privileges of the person for reports from the provider which indicate attempts by the person to operate a motor vehicle when the person is under the influence of alcohol.~~

~~I. The Department shall promulgate rules necessary to implement and administer this section~~

B. The Department of Public Safety may revoke, suspend or restrict the driving privileges of the person upon receipt of a report of a verified ignition interlock violation as defined by the Board of Tests for Alcohol and Drug Influence.

C. 1. Upon request and eligibility, the Department shall issue a restricted driver license to the person, upon payment of a restricted driver license fee of Fifty Dollars (\$50.00) and the IDAP program administration fee, as provided in Section 6-212 of this title, by the person. The restricted driver license and the driving record of the person shall indicate by an appropriate restriction that the person is only authorized to operate a vehicle upon which an approved ignition interlock device is installed. If the person is operating a motor vehicle owned or leased by an employer who has not given permission for an ignition interlock device to be installed, the employer shall provide the person with a letter, on official letterhead of the employer, which the person shall carry in his or her immediate possession at all times when operating a motor vehicle and shall display for examination and inspection upon demand of a peace officer.

2. The restricted driver license fee authorized by this section shall be remitted to the State Treasurer to be credited to the Department of Public Safety Restricted Revolving Fund. All monies accruing to the credit of the Department of Public Safety Restricted Revolving Fund from the restricted driver license fees shall be budgeted and expended solely for the purpose of administering the provisions of this section.

SECTION 9. AMENDATORY 47 O.S. 2011, Section 11-902a, is amended to read as follows:

Section 11-902a. A. No person shall knowingly authorize or permit a motor vehicle owned or under the control of that person which is not equipped with an ignition interlock device to be driven upon any street or highway of this state by any person who is required to have an ignition interlock device installed upon the vehicle of that person. A violation of this subsection shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

B. No person shall ~~make an overt or conscious~~ willfully attempt to physically disable, disconnect or wire around ~~interfere in any way with the intended and proper functioning of an ignition interlock device, unless certified pursuant to rule or Oklahoma Statutes~~ installed in a vehicle as required by law, or intentionally fail to return an ignition interlock device when it is no longer required in the vehicle or upon request by the owner of the device. A violation of this subsection shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment.

C. No person granted permission to drive a motor vehicle on the condition of installation of an ignition interlock device shall drive any vehicle that is not equipped with an ignition interlock device unless driving a vehicle of an employer in accordance with Section 754.1 or subsection A of Section 6-212.3 of this title. A violation of this ~~section~~ subsection shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

D. The court shall require, as a condition of any bond, the installation of an ignition interlock device, approved by the Board of Tests for Alcohol and Drug Influence, on any vehicle operated by the defendant charged with a second or subsequent offense under Section 11-902 of this title. The period of time for which the ignition interlock device is required to be installed pursuant to this section shall not be credited toward any time period for which

an ignition interlock device is required to be installed pursuant to Section 6-205.1 of this title. The period of time for which the ignition interlock device is required to be installed pursuant to this section shall be credited toward any time period for which ignition interlock device installation is required under the Impaired Driver Accountability Program. If the person charged successfully completes the Impaired Driver Accountability Program before a plea or verdict in their criminal case, the court may remove the ignition interlock device requirement from the bond.

SECTION 10. AMENDATORY 47 O.S. 2011, Section 751, is amended to read as follows:

Section 751. A. 1. Any person who operates a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings within this state shall be deemed to have given consent to a test or tests of such person's blood or breath, for the purpose of determining the alcohol concentration as defined in Section 756 of this title, and such person's blood, saliva or urine for determining the presence or concentration of any other intoxicating substance therein as defined in this section, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings while under the influence of alcohol or other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or if the person is involved in a traffic accident that resulted in the immediate death or serious injury of any person and is removed from the scene of the accident to a hospital or other health care facility outside the State of Oklahoma before a law enforcement officer can effect an arrest.

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

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

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

~~In the event the law enforcement agency does not designate the test to be administered, breath~~ Breath shall be the substance tested for alcohol concentration unless a law enforcement officer requests a blood test in accordance with the provisions of this section. Blood may also be tested to determine the alcohol concentration or the presence or concentration of other intoxicating substances or a combination thereof in the event that breath:

1. There are signs of intoxication by substances other than alcohol, or a combination of alcohol and other intoxicating substances;

2. Breath cannot be tested to determine the alcohol concentration thereof because of the ~~lack~~ unavailability of an approved device or qualified person to administer a breath test ~~or because such;~~

3. A breath test for any other reason cannot be administered in accordance with the rules of the Board;

4. The person whose breath is to be tested is incapable of submitting to and successfully completing a breath test, by reason of illness or injury or other physical disability; or

5. The person is transported a medical facility for medical examination or treatment prior to the timely administration of a breath test.

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

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

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

An unconscious person who has been issued a citation by a law enforcement officer for one of the offenses listed in subsection A of this section is arrested for purposes of this section. The arresting officer must leave a copy of the citation with the arrested person which may be accomplished by handing it to the arrested person, or by leaving it with the personal effects of the arrested party, so as to inform the unconscious person of the arrest.

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

~~E. D.~~ In addition to any test designated by the arresting officer, the arrested person ~~may also designate any~~ is entitled to a additional blood test to be administered to determine the concentration of alcohol, or the presence or concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance. The cost of such additional test shall be at the expense of the arrested person.

A sufficient quantity of any blood specimen obtained at the ~~designation request~~ of the arrested person shall be available to the law enforcement agency employing the arresting officer. Such specimens shall be treated in accordance with the rules applicable to the specimens obtained by an arresting officer.

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

SECTION 11. AMENDATORY 47 O.S. 2011, Section 752, is amended to read as follows:

Section 752. A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, certified by the State Board of Medical Licensure and Supervision, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or ~~other qualified person authorized by the Board of Tests for Alcohol and Drug Influence~~ personnel licensed in accordance with Section 1-2505 of Title 63 of the Oklahoma Statutes as Intermediate Emergency Medical Technicians. Advanced Emergency Medical Technicians or Paramedics acting at the request of a law enforcement officer may withdraw blood for the purpose of having a determination made of its determining the presence and concentration of alcohol or the presence or concentration of other intoxicating substance, or a combination thereof. Only ~~qualified~~ persons authorized by the Board may collect ~~breath,~~ saliva or urine, or administer tests of breath under the provisions of this title.

B. If the person authorized to withdraw blood as specified in subsection A of this section is presented with a written statement:

1. Authorizing blood withdrawal signed by the person whose blood is to be withdrawn;

2. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood;

3. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has been placed under arrest and that the officer has probable cause to believe that the person, while intoxicated, has operated a motor vehicle in such manner as to have caused the death or serious physical injury of another person, or the person has been involved in a traffic accident and has been removed from the scene of the accident that resulted in the death or great bodily injury, as defined in subsection B of Section 646 of Title 21 of the Oklahoma Statutes, of any person to a hospital or other health care facility outside the State of Oklahoma before the law enforcement officer was able to effect an arrest for such offense; or

4. In the form of an order from a district court that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

C. No person specified in subsection A of this section, no employer of such person, and no hospital or other health care facility where blood is withdrawn shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer by the provisions of Section 751 or 753 of this title, or when acting in reliance upon a signed statement or court order as provided in this section, if the

act is performed in a reasonable manner according to generally accepted clinical practice. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of Section 751 or 753 of this title or when acting pursuant to a court order.

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board, or tested by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title, to determine the alcohol concentration thereof, or the presence or concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a motor vehicle safely.

E. When blood is ~~withdrawn or saliva or urine is~~ collected for testing of its alcohol concentration or other intoxicating substance presence or concentration, at the request of a law enforcement officer, a sufficient quantity of the same specimen shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The ~~excess blood, saliva or urine~~ specimen shall be retained by a laboratory approved by the Board, in accordance with the rules and regulations of the Board, or by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title, for sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional ~~blood, saliva or urine~~ specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

F. ~~When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in accordance with the rules and regulations of the Board, to enable~~

~~the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.~~

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer; provided, if the person is convicted for any offense involving the operation of a motor vehicle while under the influence of or while impaired by alcohol or an intoxicating substance, or both, as a direct result of the incident which caused the collection of blood, saliva or urine specimens, an amount equal to the costs shall become a part of the court costs of the person and shall be collected by the court and remitted to the law enforcement agency bearing the costs. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

H. G. Tests of blood ~~or breath~~ for the purpose of determining the alcohol concentration thereof, and tests of blood, ~~saliva or urine~~ for the purpose of determining the presence or concentration of any other intoxicating substance therein, under the provisions of this title, whether administered by or at the direction of a law

enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, ~~breath, saliva or urine,~~ to be considered valid and admissible in evidence under the provisions of this title, shall have been administered or performed in accordance with the rules and regulations of the Board, or performed by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title.

~~I.~~ H. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, ~~breath, saliva or urine which is appropriate as determined by the Board~~ for the purpose of determining its alcohol concentration or the presence or concentration of any other intoxicating substance therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of alcohol, or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

~~J.~~ I. Any agency or laboratory certified by the Board or any agency or laboratory that is exempt from the Board rules pursuant to Section 759 of this title, which analyses saliva, ~~breath,~~ blood, or urine shall make available a written report of the results of the test administered by or at the direction of the law enforcement officer to:

1. The tested person, or his or her attorney;
2. The Commissioner of Public Safety; and

3. The Fatality Analysis Reporting System (FARS) analyst of the state, upon request.

The results of the tests provided for in this title shall be admissible in civil actions.

SECTION 12. AMENDATORY 47 O.S. 2011, Section 753, as amended by Section 1, Chapter 131, O.S.L. 2015 (47 O.S. Supp. 2016, Section 753), is amended to read as follows:

Section 753. A. If a conscious person under arrest refuses to submit to testing of his or her blood or breath for the purpose of determining the alcohol concentration thereof, or to a test of his or her blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, none shall be given except upon the issuance of a search warrant or unless the investigating officer has probable cause to believe that the person under arrest, while intoxicated, has operated the motor vehicle in such a manner as to have caused the death or serious physical injury of any other person or persons. In such event, such test otherwise authorized by law may be made in the same manner as if a search warrant had been issued for such test or tests. The sample shall be taken in a medically acceptable manner as authorized by Section 752 of this title. ~~The Commissioner of Public Safety, upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance and that the person had refused to submit to the test or tests, shall revoke the license to drive and any nonresident operating privilege for a period as provided by Section 6-205.1 of this title. If the person is a resident or a nonresident without a license or permit to operate a motor vehicle in this state, the Commissioner of Public Safety shall deny to the person the issuance of a license or permit for a period as provided by Section 6-205.1 of this title subject to a review as provided in Section 754 of this title. The revocation or denial shall become effective thirty (30) days after~~

~~the arrested person is given written notice thereof by the officer or by the Department as provided in Section 754 of this title.~~

~~B. The Department shall immediately reinstate the driving privilege of the person if:~~

~~1. The arrested person was required to submit to the testing of his or her blood or breath pursuant to the provisions of a search warrant despite his or her refusal to submit to testing; and~~

~~2. The Department receives a written blood or breath test report that reflects the arrested person did not have any measurable quantity of alcohol, any other intoxicating substance, or the combination of alcohol and any other intoxicating substance in the arrested person's blood or breath. It shall be a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000.00) and not more than ten (10) days in jail, or by both fine and imprisonment, for a conscious person under arrest for driving while impaired, driving under the influence or while under the influence being in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one of more single- or multi-family dwellings within this state to refuse to submit to a test of the breath of the person for the purpose of determining the alcohol concentration thereof.~~

SECTION 13. AMENDATORY 47 O.S. 2011, Section 754, is amended to read as follows:

Section 754. A. Any arrested person who is under twenty-one (21) years of age and has any measurable quantity of alcohol in the person's blood or breath, or any person twenty-one (21) years of age or older whose alcohol concentration is eight-hundredths (0.08) or more as shown by a breath test administered according to the provisions of this title, or any arrested person who has refused to submit to a breath or blood test, shall immediately surrender his or her driver license, permit or other evidence of driving privilege to the arresting law enforcement officer. The Except in cases where the arrested person submitted to a test of their blood, the officer shall seize any driver license, permit, or other evidence of driving privilege surrendered by or found on the arrested person during a search. The evidence of driving privilege seized by the officer

shall be delivered to the Department of Public Safety. The Department shall destroy the evidence of driving privilege upon receipt thereof.

B. If the evidence of driving privilege surrendered to or seized by the officer has not expired and otherwise appears valid, the officer shall issue to the arrested person a dated receipt for that driver license, permit, or other evidence of driving privilege on a form prescribed by the Department of Public Safety. This receipt shall be recognized as a temporary restricted driver license and shall authorize the arrested person to operate a motor vehicle for a period not to exceed ~~thirty (30)~~ forty-five (45) days. ~~The receipt form shall contain and constitute a notice of revocation of driving privilege by the Department effective in thirty (30) days.~~ The evidence of driving privilege and a copy of the receipt form issued to the arrested person shall be attached to the sworn report of the officer and shall be submitted by mail or in person to the Department within seventy-two (72) hours of the issuance of the receipt. The failure of the officer to timely file this report shall not affect the authority of the Department to revoke the driving privilege of the arrested person.

~~C. Upon receipt of a written blood or breath test report reflecting that the arrested person, if under twenty-one (21) years of age, had any measurable quantity of alcohol in the person's blood or breath, or, if the arrested person is twenty-one (21) years of age or older, a blood or breath alcohol concentration of eight-hundredths (0.08) or more, accompanied by a sworn report from a law enforcement officer that the officer had reasonable grounds to believe the arrested person had been operating or was in actual physical control of a motor vehicle while under the influence of alcohol as prohibited by law, the Department shall revoke or deny the driving privilege of the arrested person for a period as provided by Section 6-205.1 of this title. Revocation or denial of the driving privilege of the arrested person shall become effective thirty (30) days after the arrested person is given written notice thereof by the officer as provided in this section or by the Department as provided in Section 2-116 of this title.~~

~~D. Upon the written request of a person whose driving privilege has been revoked or denied by notice given in accordance with this section or Section 2-116 of this title, the Department shall grant~~

~~the person an opportunity to be heard if the request is received by the Department within fifteen (15) days after the notice. The sworn report of the officer, together with the results of any test or tests, shall be deemed true, absent any facial deficiency, should the requesting person fail to appear at the scheduled hearing. A timely request shall stay the order of the Department until the disposition of the hearing unless the person is under cancellation, denial, suspension or revocation for some other reason. The Department may issue a temporary driving permit pending disposition of the hearing, if the person is otherwise eligible. If the hearing request is not timely filed, the revocation or denial shall be sustained.~~

~~E. 1. At any hearing held relevant to this section, a report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof, which has been made available to the person by the Commissioner or an authorized representative at least five (5) days prior to the hearing, with reference to all or part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If the report is deemed relevant by either party, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to this subsection, orders the person to appear.~~

~~2. When any alleged controlled dangerous substance has been submitted to the laboratory of the OSBI for analysis, and the analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of the substance shall be released to any other person or laboratory absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.~~

~~3. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in the hearing when it appears there is a substantial likelihood that~~

~~material evidence not contained in the report may be produced by the testimony of any person having prepared a report. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.~~

~~4. If within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this section requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the person making the report, the motion is heard, and, if sustained, the testimony ordered can be given.~~

~~F. The hearing before the Commissioner of Public Safety or a designated hearing officer shall be conducted in the county of arrest or may be conducted by telephone conference call. The hearing may be recorded and its scope shall cover the issues of whether the officer had reasonable grounds to believe the person had been operating or was in actual physical control of a vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance as prohibited by law, and whether the person was placed under arrest.~~

~~1. If the revocation or denial is based upon a breath or blood test result and a sworn report from a law enforcement officer, the scope of the hearing shall also cover the issues as to whether:~~

- ~~a. if timely requested by the person, the person was not denied a breath or blood test,~~
- ~~b. the specimen was obtained from the person within two (2) hours of the arrest of the person,~~
- ~~c. the person, if under twenty one (21) years of age, was advised that driving privileges would be revoked or denied if the test result reflected the presence of any measurable quantity of alcohol,~~
- ~~d. the person, if twenty one (21) years of age or older, was advised that driving privileges would be revoked~~

~~or denied if the test result reflected an alcohol concentration of eight hundredths (0.08) or more, and~~

- ~~e. the test result in fact reflects the alcohol concentration.~~

~~2. If the revocation or denial is based upon the refusal of the person to submit to a breath or blood test, reflected in a sworn report by a law enforcement officer, the scope of the hearing shall also include whether:~~

- ~~a. the person refused to submit to the test or tests, and~~
- ~~b. the person was informed that driving privileges would be revoked or denied if the person refused to submit to the test or tests.~~

~~G. After the hearing, the Commissioner of Public Safety or a designated hearing officer shall order the revocation or denial either rescinded or sustained.~~

SECTION 14. AMENDATORY 47 O.S. 2011, Section 754.1, as last amended by Section 4, Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016, Section 754.1), is amended to read as follows:

Section 754.1. A. ~~The Department of Public Safety, prior to an administrative hearing for Modification of a revocation or denial arising under the provisions of Sections 751 through 754 or Section 761 of this title or under the provisions of Section 6-205.1 of this title, may modify the revocation or denial when it is determined by the Department that no other adequate means of transportation exists for the person whose driving privilege has been revoked or denied; provided, any modification under this paragraph shall apply to Class D motor vehicles only.~~

B. As a prerequisite and condition of any modification, the person shall be required to have installed an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the person's own expense, upon ~~every~~ any motor vehicle operated by the person. A person whose revocation is modified may only operate a motor vehicle equipped with an approved ignition interlock device. The Department shall require, as a condition of

modification, the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the ~~person~~ employer to the Department; provided, a request shall not be accepted by the Department under the following circumstances:

1. When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle;

2. When the person is employed by a relative who either is within the first degree of consanguinity or who resides in the same household; or

3. When the person has had a prior revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title or to Section 753 or 754 of this title.

The person shall comply with all provisions of law and rule regarding ignition interlock devices.

C. Upon the issuance of a modification order pursuant to this section ~~or Section 755 of this title~~, or under the provisions of paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of subsection B of Section 6-205.1 of this title, for a violation of this title, the person shall pay a modification fee of One Hundred Seventy-five Dollars (\$175.00) to the Department. For each modification fee collected pursuant to the provisions of this subsection, One Hundred Dollars (\$100.00) shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury and Seventy-five Dollars (\$75.00) shall be remitted to the State Treasurer to be credited to the Department of Public Safety Restricted Revolving Fund. All monies accruing to the credit of the Department of Public Safety Restricted Revolving Fund from modification fees shall be budgeted and expended solely for the purpose of administering the provisions of this section ~~and Section 755 of this title~~.

D. The Board of Tests for Alcohol and Drug Influence shall promulgate such rules as are necessary to implement and administer the provisions of this subsection relating to ignition interlock devices and the providers of such devices.

SECTION 15. AMENDATORY 47 O.S. 2011, Section 756, is amended to read as follows:

Section 756. A. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, evidence of the alcohol concentration in the blood or breath of the person as shown by analysis of the blood or breath of the person performed in accordance with the provisions of Sections 752 and 759 of this title or evidence of the presence or concentration of any other intoxicating substance as shown by analysis of such person's blood, breath, saliva, or urine specimens in accordance with the provisions of Sections 752 and 759 of this title is admissible. Evidence that the person has refused to submit to ~~either of said analyses~~ a test or tests is also admissible. For the purpose of this title, when the person is under the age of twenty-one (21) years, evidence that there was, at the time of the test, any measurable quantity of alcohol is prima facie evidence that the person is under the influence of alcohol in violation of Section 11-906.4 of this title. For persons twenty-one years of age or older:

1. Evidence that there was, at the time of the test, an alcohol concentration of five-hundredths (0.05) or less is prima facie evidence that the person was not under the influence of alcohol;

2. Evidence that there was, at the time of the test, an alcohol concentration in excess of five-hundredths (0.05) but less than eight-hundredths (0.08) is relevant evidence that the person's ability to operate a motor vehicle was impaired by alcohol. However, no person shall be convicted of the offense of operating or being in actual physical control of a motor vehicle while such person's ability to operate such vehicle was impaired by alcohol solely because there was, at the time of the test, an alcohol concentration in excess of five-hundredths (0.05) but less than

eight-hundredths (0.08) in the blood or breath of the person in the absence of additional evidence that such person's ability to operate such vehicle was affected by alcohol to the extent that the public health and safety was threatened or that ~~said~~ the person had violated a state statute or local ordinance in the operation of a motor vehicle; and

3. Evidence that there was, at the time of the test, an alcohol concentration of eight-hundredths (0.08) or more shall be admitted as prima facie evidence that the person was under the influence of alcohol.

B. For purposes of this title, "alcohol concentration" means grams of alcohol per one hundred (100) milliliters of blood if the blood was tested, or grams of alcohol per two hundred ten (210) liters of breath if the breath was tested.

C. To be admissible in a proceeding, the evidence must first be qualified by establishing that the test was administered to the person within two (2) hours after the arrest of the person.

D. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of alcohol, the following may be considered as evidence that the test of the breath of the person was validly administered in accordance with the rules of the Board of Tests for Alcohol and Drug Influence:

1. A report, test result or other documentation indicating the test was performed by an operator holding a permit issued by the Board of Tests for Alcohol and Drug Influence;

2. A report, test result or other documentation indicating the test was performed after the installation of a dry gas cylinder by the Board of Tests for Alcohol and Drug Influence and before the expiration date of the cylinder;

3. A report, test result or other documentation reflecting the results of two breath samples within 0.03g/210L of each other; or

4. A report, test result or other documentation reflecting a control test within 0.01g/210L of the target value of the control.

E. Results of the test of a the breath or blood of the person, if admissible, shall be admitted without reference to measurement uncertainty.

F. 1. At any hearing, documents retained by the Board of Tests of Alcohol and Drug Influence to reflect maintenance on an instrument maintained by the Board for the measurement of alcohol concentration in a person's breath, which have been made available to the accused by the office of the district attorney at least ten (10) days prior to the hearing, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If a report is deemed relevant by the state or the accused, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to paragraph 2 of this subsection, orders the person making the report to appear.

2. The court, upon motion of the state or the accused at least five (5) days prior to the hearing, shall order the attendance of the person making a report intended to be submitted as evidence, pursuant to paragraph 1 of this subsection, when it appears there is a substantial likelihood that material evidence not contained in such report may be produced by the testimony of the person having prepared the report.

SECTION 16. REPEALER 47 O.S. 2011, Section 755, is hereby repealed.

SECTION 17. This act shall become effective November 1, 2017.

Passed the Senate the 20th day of May, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2017.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____