

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 643

By: David

4  
5  
6 AS INTRODUCED

7 An Act relating to impaired driving; creating the  
8 Impaired Driving Elimination Act 2; providing purpose  
9 of creation of the act; amending 47 O.S. 2011,  
10 Section 2-116, which relates to giving of notice;  
11 authorizing certain notice; updating language;  
12 amending 47 O.S. 2011, Section 6-205, as amended by  
13 Section 1, Chapter 279, O.S.L. 2013 (47 O.S. Supp.  
14 2016, Section 6-205), which relates to mandatory  
15 revocation of driving privilege; providing certain  
16 definition; amending 47 O.S. 2011, Section 6-205.1,  
17 as amended by Section 1, Chapter 393, O.S.L. 2013 (47  
18 O.S. Supp. 2016, Section 6-205.1), which relates to  
19 periods of revocation; modifying certain conditions  
20 and periods of revocation; amending 47 O.S. 2011,  
21 Section 6-212, as last amended by Section 3, Chapter  
22 97, O.S.L. 2015 (47 O.S. Supp. 2016, Section 6-212),  
23 which relates to reinstatement fees; creating the  
24 Impaired Driver Accountability Program (IDAP);  
directing deposit of funds; providing certain  
procedures; directing participation requirements;  
amending 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), which relates to  
the duration of ignition interlock device; modifying  
requirements; requiring certain payment; directing  
distribution of collected fees; allowing certain  
revocation; amending 47 O.S. 2011, Section 11-902, as  
last amended by Section 1, Chapter 196, O.S.L. 2016  
(47 O.S. Supp. 2016, Section 11-902), which relates  
to the penalty for persons under the influence of  
alcohol or other intoxicating substance; requiring  
certain approval; amending 47 O.S. 2011, Section 11-  
902a, which relates to use of a motor vehicle without  
an ignition interlock device; making certain  
stipulation; amending 47 O.S. 2011, Section 751,

1 which relates to implied consent for test determining  
2 presence of alcohol or other intoxicating substance;  
3 modifying certain procedures; amending 47 O.S. 2011,  
4 Section 752, which relates to administration of  
5 tests; requiring certain qualifications; directing  
6 certain action; amending 47 O.S. 2011, Section 753,  
7 as amended by Section 1, Chapter 131, O.S.L. 2015 (47  
8 O.S. Supp. 2016, Section 753), which relates to  
9 refusal to submit to test; modifying penalty;  
10 amending 47 O.S. 2011, Section 754, which relates to  
11 administrative revocation; modifying certain time  
12 frames; requiring certain review procedures;  
13 outlining hearing procedures; directing fees and  
14 collection; amending 47 O.S. 2011, Section 754.1, as  
15 last amended by Section 4, Chapter 393, O.S.L. 2013  
16 (47 O.S. Supp. 2016, Section 754.1), which relates to  
17 modification of revocation; modifying requirements;  
18 amending 47 O.S. 2011, Section 755, which relates to  
19 appeal; making certain prohibitions; amending 47 O.S.  
20 2011, Section 756, which relates to admission of  
21 evidence shown by tests; allowing certain  
22 documentation; updating language; amending 47 O.S.  
23 2011, Section 757, which relates to admissibility of  
24 other evidence; making certain allowances; amending  
47 O.S. 2011, Section 759, as last amended by Section  
1, Chapter 125, O.S.L. 2015 (47 O.S. Supp. 2016,  
Section 759), which relates to Board of Tests for  
Alcohol and Drug Influence Revolving Fund; directing  
certain authority; providing for noncodification; and  
providing an effective date.

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:

1       The purpose of the Impaired Driving Elimination Act and its  
2 amendments is to recognize that it is in the best interests of the  
3 citizens of the State of Oklahoma to have effective and meaningful  
4 administrative monitoring by the Department of Public Safety of  
5 impaired driving offenders. An accelerated process to hold these  
6 offenders immediately accountable through the restriction of their  
7 driving privileges, and the restoration of those driving privileges  
8 through compliance criteria developed by the Department of Public  
9 Safety, will help ensure the safety of all citizens who utilize the  
10 roads, streets and highways of the State of Oklahoma.

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

13       Section 2-116. Whenever the Department of Public Safety is  
14 authorized or required to give any notice under ~~this act~~ Section 2-  
15 101 et seq. of this title or other law regulating the operation of  
16 vehicles, unless a different method of giving such notice is  
17 otherwise expressly prescribed, such notice shall be given either by  
18 personal delivery thereof to the person to be so notified or by  
19 deposit in the United States mail of such notice in an envelope with  
20 first class postage prepaid, addressed to such person at the address  
21 as shown by the records of the Department. Such notice shall be  
22 sent to a legal representative who has entered an appearance for the  
23 person in accordance with the rules of the Department. The giving  
24 of notice by mail is complete upon the expiration of ten (10) days

1 after such deposit of ~~said~~ the notice. Proof of the giving of  
2 notice in either such manner may be made by the certificate of any  
3 officer or employee of the Department or affidavit of any person  
4 over eighteen (18) years of age, naming the person to whom such  
5 notice was given and specifying the ~~time~~ date, place and manner of  
6 ~~the giving thereof~~ notice. Failure of the person, or the person's  
7 legal representative, to receive notice because of failure to notify  
8 the Department of a change in his or her current mailing address, as  
9 required by Section 6-116 of this title, or as required by the rules  
10 of the Department, shall not be sufficient grounds ~~for the person to~~  
11 ~~protest the~~ to invalidate the giving of notice.

12 SECTION 4. AMENDATORY 47 O.S. 2011, Section 6-205, as  
13 amended by Section 1, Chapter 279, O.S.L. 2013 (47 O.S. Supp. 2016,  
14 Section 6-205), is amended to read as follows:

15 Section 6-205. A. The Department of Public Safety shall  
16 immediately revoke the driving privilege of any person, whether  
17 adult or juvenile, upon receiving a record of conviction in any  
18 municipal, state or federal court within the United States of any of  
19 the following offenses, when such conviction has become final:

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

22 2. Driving or being in actual physical control of a motor  
23 vehicle while under the influence of alcohol, any other intoxicating  
24 substance, or the combined influence of alcohol and any other

1 | intoxicating substance, ~~any violation of paragraph 1, 2, 3 or 4 of~~  
2 | or any offense in subsection A of Section 11-902 of this title or  
3 | ~~any violation of~~ offense in Section 11-906.4 of this title.

4 | However, the Department shall not additionally revoke the driving  
5 | privileges of the person pursuant to this subsection if the driving  
6 | privilege of the person has been revoked because of a test result or  
7 | test refusal pursuant to Section 753 or 754 of this title arising  
8 | from the same circumstances which resulted in the conviction unless  
9 | the revocation because of a test result or test refusal is set  
10 | aside;

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

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

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

20 |       6. A misdemeanor or felony conviction for unlawfully  
21 | possessing, distributing, dispensing, manufacturing, trafficking,  
22 | cultivating, selling, transferring, attempting or conspiring to  
23 | possess, distribute, dispense, manufacture, traffic, sell, or  
24 | transfer of a controlled dangerous substance as defined in the

1 Uniform Controlled Dangerous Substances Act while using a motor  
2 vehicle;

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

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

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

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

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

15 B. ~~The first license revocation under any provision of this~~  
16 ~~section, except for paragraph 2, 6, 7 or 11 of subsection A of this~~  
17 ~~section, shall be for a period of one (1) year. Such period shall~~  
18 ~~not be modified~~ Department may promulgate rules necessary to  
19 implement revocations, denials, suspensions and modifications  
20 thereof.

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

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

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

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

15       ~~F.~~ G. The first license revocation under paragraph 11 of  
16 subsection A of this section shall be for a period of one (1) year.  
17 Such period may be modified. Any appeal of the revocation of  
18 driving privilege under paragraph 11 of subsection A of this section  
19 shall be governed by Section 6-211 of this title, provided any  
20 modification under this subsection shall apply to Class D motor  
21 vehicles only.

22       ~~G.~~ H. As used in this section, "great bodily injury" means  
23 bodily injury which creates a substantial risk of death or which  
24

1 causes serious, permanent disfigurement or protracted loss or  
2 impairment of the function of any bodily member or organ.

3 I. As used in this section, "conviction" means:

4 1. A non-vacated adjudication of guilt;

5 2. A determination that a person has violated or failed to  
6 comply with this section in any court or by the Department of Public  
7 Safety following an administrative hearing;

8 3. A non-vacated forfeiture of bail or collateral deposited to  
9 ensure a person's appearance in court;

10 4. A plea of guilty or nolo contendere accepted by the court  
11 that results in any sentence, including a deferred or suspended  
12 sentence;

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

14 6. A violation of a condition of release without bail  
15 regardless of whether the penalty is rebated, suspended or probated;  
16 or

17 7. A juvenile delinquency adjudication or deferred adjudication  
18 by a court or any notification from a court pursuant to Section 6-  
19 107.1 of this title.

20 SECTION 5. AMENDATORY 47 O.S. 2011, Section 6-205.1, as  
21 amended by Section 1, Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016,  
22 Section 6-205.1), is amended to read as follows:

23 Section 6-205.1. A. The driving privilege of a person who is  
24 convicted of any offense as provided in paragraph 2 of subsection A



1 of Section 6-205 of this title, or a person who has refused to  
2 submit to a test or tests as provided in Section 753 of this title,  
3 or a person whose alcohol concentration is subject to the provisions  
4 of Section 754 of this title, unless the person has successfully  
5 completed the Impaired Driver Accountability Program (IDAP) in  
6 accordance with paragraph E of Section 6-212 of this title, for the  
7 grounds that gave rise to the revocation, shall be revoked or denied  
8 by the Department of Public Safety for the following period, as  
9 applicable:

10 1. The first license revocation pursuant to paragraph 2 of  
11 subsection A of Section 6-205 of this title or to Section 753 or 754  
12 of this title shall be for ~~one hundred eighty (180) days~~ a minimum  
13 period of one (1) year, which may shall be modified; provided, any  
14 modification under this paragraph shall apply to Class D motor  
15 vehicles only. Modification requires the issuance of an ignition  
16 interlock restricted license, and the continuous installation of an  
17 ignition interlock device or devices pursuant to Section 754.1 of  
18 this title for a period of not less than one (1) year immediately  
19 preceding reinstatement of the license. For the last sixty (60)  
20 days of the modification period the person must not receive any  
21 verified ignition interlock violations as determined by the Board of  
22 Tests for Alcohol and Drug Influence. If the Department receives  
23 any verified ignition interlock violations within the last sixty  
24 (60) days of the modification period, the modification period shall

1 be extended until such time the person completes a violation free  
2 sixty (60) day period;

3 2. A revocation pursuant to paragraph 2 of subsection A of  
4 Section 6-205 of this title, or to Section 753 or 754 of this title  
5 shall be for a minimum period of ~~one (1) year or longer if driving~~  
6 ~~privileges are modified pursuant to the provisions of this paragraph~~  
7 eighteen (18) months which shall be modified, if within ten (10)  
8 years preceding the date of arrest relating thereto, as shown by the  
9 records of the Department:

10 a. a prior revocation commenced pursuant to paragraph 2  
11 or 6 of subsection A of Section 6-205 of this title,  
12 or to Section 753 or 754 of this title, or previous  
13 completion of the Impaired Driving Accountability  
14 Program pursuant to Section 6-212 of this title, or

15 b. the record of the person reflects a prior conviction  
16 in another jurisdiction which did not result in a  
17 revocation of Oklahoma driving privileges, for a  
18 violation substantially similar to paragraph 2 of  
19 subsection A of Section 6-205 of this title, and the  
20 person was not a resident or a licensee of Oklahoma at  
21 the time of the offense resulting in the conviction.

22 Such ~~one-year~~ eighteen (18) month period of revocation ~~may~~ shall be  
23 modified; provided, any modification under this paragraph shall  
24 apply to Class D motor vehicles only. ~~For any modification, the~~

1 ~~person shall be required to install~~ Every modification shall require  
2 the installation of an ignition interlock device or devices,  
3 pursuant to Section 754.1 of this title. ~~The period of revocation~~  
4 ~~and the period of interlock installation shall run concurrently and~~  
5 ~~each shall be for no less than one (1) year~~ for a continuous period  
6 of not less than eighteen (18) months immediately preceding  
7 reinstatement of the license. For the last sixty (60) days of the  
8 modification period the person must not receive any verified  
9 ignition interlock violations as determined by the Board of Tests  
10 for Alcohol and Drug Influence. If the Department receives any  
11 verified ignition interlock violations within the last sixty (60)  
12 days of the modification period, the modification period shall be  
13 extended until such time the person completes a violation free sixty  
14 (60) day period; or

15 3. A revocation pursuant to paragraph 2 of subsection A of  
16 Section 6-205 of this title, or to Section 753 or 754 of this title  
17 shall be for a minimum period of three (3) years or longer ~~if~~  
18 ~~driving privileges are~~ which shall be modified pursuant to the  
19 provisions of this paragraph if within ten (10) years preceding the  
20 date of arrest relating thereto, as shown by the records of the  
21 Department:

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

1 previous completion(s) of the Impaired Driving  
2 Accountability Program pursuant to Section 6-212 of  
3 this title,

4 b. the record of the person reflects two or more prior  
5 convictions in another jurisdiction which did not  
6 result in a revocation of Oklahoma driving privileges,  
7 for a violation substantially similar to paragraph 2  
8 of subsection A of Section 6-205 of this title, and  
9 the person was not a resident or a licensee of  
10 Oklahoma at the time of the offense resulting in the  
11 conviction, or

12 c. any combination of two or more prior revocations, or  
13 previous completions of the Impaired Driving  
14 Accountability Program, or convictions as described in  
15 subparagraphs a and b of this paragraph.

16 Such three-year period of revocation ~~may~~ shall be modified;  
17 provided, any modification under this paragraph shall apply to Class  
18 D motor vehicles only. ~~For any modification, the person shall be~~  
19 ~~required to install~~ Modification requires the issuance of a ignition  
20 interlock restricted license, and the continuous installation of an  
21 ignition interlock device or devices, pursuant to Section 754.1 of  
22 this title. ~~The period of revocation and the period of interlock~~  
23 ~~installation shall run concurrently and each shall be for no less~~  
24 ~~than three (3) years~~ for a period of not less than three (3) years

1 immediately preceding reinstatement of the license. For the last  
2 sixty (60) days of the modification period the person must not  
3 receive any verified ignition interlock violations as determined by  
4 the Board of Tests for Alcohol and Drug Influence. If the  
5 Department receives any verified ignition interlock violations  
6 within the last sixty (60) days of the modification period, the  
7 modification period shall be extended until such time the person  
8 completes a violation free sixty (60) day period.

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

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

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

23  
24

- 1 a. a prior revocation commenced pursuant to paragraph 2  
2 or 6 of subsection A of Section 6-205 of this title,  
3 or under Section 753 or 754 of this title, or  
4 b. the record of the person reflects a prior conviction  
5 in another jurisdiction which did not result in a  
6 revocation of Oklahoma driving privileges, for a  
7 violation substantially similar to paragraph 2 or 6 of  
8 subsection A of Section 6-205 of this title, and the  
9 person was not a resident or a licensee of Oklahoma at  
10 the time of the offense resulting in the conviction.

11 Such period shall not be modified; or

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

- 15 a. two or more prior revocations commenced pursuant to  
16 paragraph 2 or 6 of subsection A of Section 6-205 of  
17 this title, or under Section 753 or 754 of this title,  
18 b. the record of the person reflects two or more prior  
19 convictions in another jurisdiction which did not  
20 result in a revocation of Oklahoma driving privileges,  
21 for a violation substantially similar to paragraph 2  
22 or 6 of subsection A of Section 6-205 of this title,  
23 and the person was not a resident or licensee of  
24

1 Oklahoma at the time of the offense resulting in the  
2 conviction, or

3 c. any combination of two or more prior revocations as  
4 described in subparagraphs a and b or this paragraph.

5 Such period shall not be modified.

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

16 C. For the purposes of this subsection:

17 1. The term "conviction" includes:

- 18 a. a juvenile delinquency adjudication or deferred  
19 adjudication by a court or any notification from a  
20 court pursuant to Section 6-107.1 of this title; ~~and,~~  
21 b. a non-vacated adjudication of guilt,  
22 c. a determination that the person has violated or failed  
23 to comply with this section in any court or by the  
24

1           Department of Public Safety following an  
2           administrative determination,

3           d. a non-vacated forfeiture of bail or collateral  
4           deposited to ensure a person's appearance in court,

5           e. a plea of guilty or nolo contendere accepted by the  
6           court resulting in any sentence to include a deferred  
7           sentence,

8           f. the payment of any fine or costs, or

9           g. a violation of a condition of release without bail,  
10           regardless of whether or not the penalty is rebated,  
11           suspended or probated; and

12           2. The term "revocation" includes a denial of driving  
13 privileges by the Department.

14           D. Each period of revocation not subject to modification shall  
15 be mandatory and neither the Department nor any court ~~shall~~ may  
16 grant driving privileges ~~based upon hardship or otherwise~~ for the  
17 duration of that period. Each period of revocation, subject to  
18 modification as provided for in this section, ~~may~~ shall be modified  
19 as provided for in Section 754.1 or 755 of this title; provided, any  
20 modification under this paragraph shall apply to Class D motor  
21 vehicles only.

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



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

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

9 B. The Department shall:

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

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

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

1 1. The expiration of each such revocation or suspension order;

2 2. The person has paid to the Department:

3 a. if such privilege is suspended or revoked pursuant to  
4 Section 1115.5 of Title 22 of the Oklahoma Statutes or  
5 pursuant to any provisions of this title, except as  
6 provided in subparagraph b of this paragraph, a  
7 processing fee of Twenty-five Dollars (\$25.00) for  
8 each such suspension or revocation as shown by the  
9 Department's records, or

10 b. (1) if such privilege is suspended or revoked  
11 pursuant to the provisions of Section 6-205, 6-  
12 205.1, 7-612, 753, 754 or 761 of this title or  
13 pursuant to subsection A of Section 7-605 of this  
14 title for a conviction for failure to maintain  
15 the mandatory motor vehicle insurance required by  
16 law or pursuant to subsection B of Section 6-206  
17 of this title for a suspension other than for  
18 points accumulation, a processing fee of Seventy-  
19 five Dollars (\$75.00) for each such suspension or  
20 revocation as shown by the Department's records,  
21 and a special assessment trauma-care fee of Two  
22 Hundred Dollars (\$200.00) to be deposited into  
23 the Trauma Care Assistance Revolving Fund created  
24 in Section 1-2530.9 of Title 63 of the Oklahoma

1 Statutes, for each suspension or revocation as  
2 shown by the records of the Department, and  
3 (2) in addition to any other fees required by this  
4 section, if such privilege is suspended or  
5 revoked pursuant to an arrest on or after  
6 November 1, 2008, under the provisions of  
7 paragraph 2 or 6 of subsection A of Section 6-205  
8 of this title or of Section 753, 754, or 761 of  
9 this title, a fee of Fifteen Dollars (\$15.00),  
10 which shall be apportioned pursuant to the  
11 provisions of Section 3-460 of Title 43A of the  
12 Oklahoma Statutes; and

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

15 a. beginning on August 26, 2011, through June 30, 2013,  
16 Fifty Dollars (\$50.00), of which Twenty-five Dollars  
17 (\$25.00) shall be deposited by the Commissioner to the  
18 credit of the Department of Public Safety Revolving  
19 Fund and, in addition to other purposes authorized by  
20 law, the expenditures from that fund of monies derived  
21 from the Twenty-five Dollars (\$25.00) pursuant to this  
22 subparagraph shall be used to fund any Oklahoma  
23 Highway Patrol Trooper Academy provided by the  
24 Department. Any remaining funds shall be used for

1 operational expenses of the Oklahoma Highway Patrol,  
2 and

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

5 D. The Department of Public Safety is hereby authorized to  
6 enter into agreements with persons whose license to operate a motor  
7 vehicle or commercial motor vehicle has been suspended or revoked,  
8 except as to those suspensions, revocations, cancellations or  
9 denials made pursuant to paragraph 1 or 2 of subsection A of Section  
10 6-205 of this title or to Section 753 or 754 of this title, for  
11 issuance of provisional licenses that would allow such persons to  
12 drive:

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

15 2. During the scope and course of their employment;

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

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

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

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

23 with the condition that such persons pay a minimum of Twenty-five  
24 Dollars (\$25.00) per month toward the satisfaction of all

1 outstanding driver license or commercial driver license  
2 reinstatement fees. The Department shall develop rules and  
3 procedures to establish such a provisional driver license program  
4 and such rules and procedures shall include, but not be limited to,  
5 eligibility criteria, proof of insurance, proof of enrollment or  
6 employment, and any provisional license fees. Any violation of law  
7 by the person holding the provisional license that would result in  
8 the suspension or revocation of a driver license shall result in the  
9 revocation of the provisional license and such person shall be  
10 ineligible for future application for a provisional driver license.

11 E. No later than June 30, 2018, the Department shall establish  
12 the Impaired Driver Accountability Program at the Department of  
13 Public Safety. Fees collected by the Department for admission into  
14 the program shall be deposited in the Department of Public Safety  
15 Restricted Revolving Fund for support of the program. The  
16 Department shall promulgate rules necessary to implement the  
17 Impaired Driver Accountability Program. The rules shall include,  
18 but not be limited to:

- 19 1. Eligibility requirements; and  
20 2. Potential consequences for violations of the program rules.

21 F. The Department may, upon receipt of the documentation  
22 necessary for a revocation under paragraph 2, 6, 7 or 11 of  
23 subsection A of Section 6-205.1 or Section 753 or 754 of this title,  
24 enter into an IDAP program agreement with the person if:

1       1. The Department receives the request for IDAP participation  
2 pursuant to this section within ten (10) calendar days of date of  
3 notice pursuant to Section 2-116 of this title on the form provided  
4 by the Department;

5       2. The Department receives the ADSAC assessment of the  
6 individual reflecting a treatment category of I or II within forty-  
7 five (45) days of the date of notice pursuant to Section 2-116 of  
8 this title;

9       3. The Department receives payment of the Two Hundred Dollars  
10 (\$200.00) program administration fee within forty-five (45) days of  
11 the date of notice pursuant to Section 2-116 of this title;

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

17       5. The Department receives proof of the person's driving  
18 privileges, including but not limited to out-of-state driver  
19 licenses and licenses obtained at any time before or after entry  
20 into the program within forty-five (45) days of the date of notice  
21 pursuant to Section 2-116 of this title.

22       G. For the last sixty (60) days of the IDAP program the person  
23 must not receive any verified ignition violations as determined by  
24 the Board of Tests for Alcohol and Drug Influence. If the

1 Department receives any verified ignition interlock violations  
2 within the last sixty (60) days of the IDAP program period, the  
3 program period shall be extended until such a time the person  
4 completes a violation free sixty (60) day period.

5 1. Upon successful completion of the program, the driving  
6 record of the person will be updated to indicate their completion of  
7 the program without revocation; and

8 2. No reinstatement fee will be charged to the person.

9 H. Only first offenders are eligible for participation in the  
10 IDAP program. For purposes of this section, "first offender" means  
11 a person who has never been convicted of, or had their driving  
12 privileges revoked or denied by the Department for an offense listed  
13 in paragraph 2 of subsection A of Section 6-205 of this title, or  
14 who have previously completed the IDAP program. The program length  
15 shall be a minimum of one hundred eighty (180) days;

16 I. Completion of the program is contingent upon the person's  
17 compliance with the rules of the Department.

18 J. In the event a person is not eligible for participation in  
19 the Impaired Driver Accountability Program, a timely request for  
20 admission shall constitute a request for hearing to the Department.  
21 The person will be notified in writing of the determination of  
22 ineligibility for the program. The determination of the Department  
23 regarding eligibility is not appealable.

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

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

5           2. Except as otherwise provided in this section, all other  
6 monies collected in excess of Two Hundred Fifty Thousand Dollars  
7 (\$250,000.00) each month shall be deposited in the General Revenue  
8 Fund.

9           SECTION 7.           AMENDATORY           47 O.S. 2011, Section 6-212.3, as  
10 last amended by Section 2, Chapter 393, O.S.L. 2013 (47 O.S. Supp.  
11 2016, Section 6-212.3), is amended to read as follows:

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

20           ~~1. For a first revocation and if the person refused to submit~~  
21 ~~to a test or tests, or had a blood or breath alcohol concentration~~  
22 ~~of fifteen hundredths (0.15) or more, for a period of one and one-~~  
23 ~~half (1 1/2) years following the mandatory period of revocation or~~  
24



1 ~~until the driving privileges of the person are reinstated, whichever~~  
2 ~~is longer;~~

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

6 ~~3. For a third or subsequent revocation, for a period of five~~  
7 ~~(5) years following the mandatory period of revocation or until the~~  
8 ~~driving privileges of the person are reinstated, whichever is~~  
9 ~~longer.~~

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

20 ~~C. The Whenever the installation of an ignition interlock~~  
21 ~~device is allowed or required by law, the Department shall require,~~  
22 ~~as a condition of reinstatement, the device to be installed upon any~~  
23 ~~vehicle owned or leased, as reflected on the vehicle registration,~~  
24 ~~by an employer of the person for use by the person, except when the~~

1 employer requests the ignition interlock device not be installed.  
2 The request shall be in writing and notarized on the official  
3 letterhead of the employer and provided by the person to the  
4 Department; provided, a request shall not be accepted by the  
5 Department under the following circumstances:

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

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

11 ~~or~~

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

15 4. When the person has a previous revocation pursuant to  
16 paragraph 2 of subsection A of Section 6-205 or Section 753 or 754  
17 of this title, or a previous completion of the Impaired Driver  
18 Accountability Program as a result of an arrest for a violation of  
19 Section 11-902 or Section 11-902a of this title which occurred in a  
20 vehicle owned or leased by the person's employer.

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

23 B. The Department of Public Safety may revoke, suspend or  
24 restrict the driving privileges of the person upon receipt of a

1 report of a verified ignition interlock violation as defined by the  
2 Board of Tests for Alcohol and Drug Influence.

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

21 ~~2. The restricted driver license fee authorized by this section~~  
22 ~~shall be remitted to the State Treasurer to be credited to the~~  
23 ~~Department of Public Safety Restricted Revolving Fund. All monies~~  
24 ~~accruing to the credit of the Department of Public Safety Restricted~~

1 ~~Revolving Fund from restricted driver license fees shall be budgeted~~  
2 ~~and expended solely for the purpose of administering the provisions~~  
3 ~~of this section.~~

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

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

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

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

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

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

1        C. 1. Upon request and eligibility, the Department shall issue  
2 a restricted driver license to the person, upon payment of a  
3 restricted driver license fee of Fifty Dollars (\$50.00) and all  
4 other appropriate fees by the person. The restricted driver license  
5 and the driving record of the person shall indicate by an  
6 appropriate restriction that the person is only authorized to  
7 operate a vehicle upon which an ignition interlock is installed. If  
8 the person is operating a motor vehicle owned or leased by an  
9 employer who has not given permission for an ignition interlock  
10 device to be installed, the employer shall provide the person with a  
11 letter, on official letterhead of the employer, which the person  
12 shall carry in his or her immediate possession at all times when  
13 operating a motor vehicle and shall display for examination and  
14 inspection upon demand of a peace officer.

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

22        SECTION 8.        AMENDATORY        47 O.S. 2011, Section 11-902, as  
23 last amended by Section 1, Chapter 196, O.S.L. 2016 (47 O.S. Supp.  
24 2016, Section 11-902), is amended to read as follows:

1 Section 11-902. A. It is unlawful and punishable as provided  
2 in this section for any person to drive, operate, or be in actual  
3 physical control of a motor vehicle within this state, whether upon  
4 public roads, highways, streets, turnpikes, other public places or  
5 upon any private road, street, alley or lane which provides access  
6 to one or more single or multi-family dwellings, who:

7 1. Has a blood or breath alcohol concentration, as defined in  
8 Section 756 of this title, of eight-hundredths (0.08) or more at the  
9 time of a test of such person's blood or breath administered within  
10 two (2) hours after the arrest of such person;

11 2. Is under the influence of alcohol;

12 3. Has any amount of a Schedule I chemical or controlled  
13 substance, as defined in Section 2-204 of Title 63 of the Oklahoma  
14 Statutes, or one of its metabolites or analogs in the person's  
15 blood, saliva, urine or any other bodily fluid at the time of a test  
16 of such person's blood, saliva, urine or any other bodily fluid  
17 administered within two (2) hours after the arrest of such person;

18 4. Is under the influence of any intoxicating substance other  
19 than alcohol which may render such person incapable of safely  
20 driving or operating a motor vehicle; or

21 5. Is under the combined influence of alcohol and any other  
22 intoxicating substance which may render such person incapable of  
23 safely driving or operating a motor vehicle.

24

1 B. The fact that any person charged with a violation of this  
2 section is or has been lawfully entitled to use alcohol or a  
3 controlled dangerous substance or any other intoxicating substance  
4 shall not constitute a defense against any charge of violating this  
5 section.

6 C. 1. Any person who is convicted of a violation of the  
7 provisions of this section shall be guilty of a misdemeanor for the  
8 first offense and shall:

- 9 a. participate in an assessment and evaluation pursuant  
10 to subsection G of this section and shall follow all  
11 recommendations made in the assessment and evaluation,
- 12 b. be punished by imprisonment in jail for not less than  
13 ten (10) days nor more than one (1) year, and
- 14 c. be fined not more than One Thousand Dollars  
15 (\$1,000.00).

16 2. Any person who, having been convicted of or having received  
17 deferred judgment for a violation of this section or a violation  
18 pursuant to the provisions of any law of this state or another state  
19 prohibiting the offenses provided in this section, Section 11-904 of  
20 this title or paragraph 4 of subsection A of Section 852.1 of Title  
21 21 of the Oklahoma Statutes, or having a prior conviction in a  
22 municipal criminal court of record for the violation of a municipal  
23 ordinance prohibiting the offense provided for in this section  
24 commits a subsequent violation of this section within ten (10) years

1 of the date following the completion of the execution of ~~said~~ the  
2 sentence or deferred judgment, and against whom the district  
3 attorney seeks to enhance punishment pursuant to the provision of  
4 this section, shall, upon conviction, be guilty of a felony and  
5 shall participate in an assessment and evaluation pursuant to  
6 subsection G of this section and shall be sentenced to:

7 a. follow all recommendations made in the assessment and  
8 evaluation for treatment at the defendant's expense,  
9 or

10 b. placement in the custody of the Department of  
11 Corrections for not less than one (1) year and not to  
12 exceed five (5) years and a fine of not more than Two  
13 Thousand Five Hundred Dollars (\$2,500.00), or

14 c. treatment, imprisonment and a fine within the  
15 limitations prescribed in subparagraphs a and b of  
16 this paragraph.

17 However, if the treatment in subsection G of this section does  
18 not include residential or inpatient treatment for a period of not  
19 less than five (5) days, the person shall serve a term of  
20 imprisonment of at least five (5) days.

21 3. Any person who commits a violation of this section after  
22 having been convicted of a felony offense pursuant to the provisions  
23 of this section or a violation pursuant to the provisions of any law  
24 of this state or another state prohibiting the offenses provided for



1 in this section, Section 11-904 of this title or paragraph 4 of  
2 subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes,  
3 and against whom the district attorney seeks to enhance punishment,  
4 shall be guilty of a felony and participate in an assessment and  
5 evaluation pursuant to subsection G of this section and shall be  
6 sentenced to:

- 7 a. follow all recommendations made in the assessment and  
8 evaluation for treatment at the defendant's expense,  
9 two hundred forty (240) hours of community service and  
10 use of an ignition interlock device, as provided by  
11 subparagraph n of paragraph 1 of subsection A of  
12 Section 991a of Title 22 of the Oklahoma Statutes, or
- 13 b. placement in the custody of the Department of  
14 Corrections for not less than one (1) year and not to  
15 exceed ten (10) years and a fine of not more than Five  
16 Thousand Dollars (\$5,000.00), or
- 17 c. treatment, imprisonment and a fine within the  
18 limitations prescribed in subparagraphs a and b of  
19 this paragraph.

20 However, if the treatment in subsection G of this section does  
21 not include residential or inpatient treatment for a period of not  
22 less than ten (10) days, the person shall serve a term of  
23 imprisonment of at least ten (10) days.

24

1           4. Any person who commits a violation of this section after  
2 having been twice convicted of a felony offense pursuant to the  
3 provisions of this section or a violation pursuant to the provisions  
4 of any law of this state or another state prohibiting the offenses  
5 provided for in this section, Section 11-904 of this title or  
6 paragraph 4 of subsection A of Section 852.1 of Title 21 of the  
7 Oklahoma Statutes, and against whom the district attorney seeks to  
8 enhance punishment, shall be guilty of a felony and participate in  
9 an assessment and evaluation pursuant to subsection G of this  
10 section and shall be sentenced to:

11           a. follow all recommendations made in the assessment and  
12 evaluation for treatment at the defendant's expense,  
13 followed by not less than one (1) year of supervision  
14 and periodic testing at the defendant's expense, four  
15 hundred eighty (480) hours of community service, and  
16 use of an ignition interlock device, as provided by  
17 subparagraph n of paragraph 1 of subsection A of  
18 Section 991a of Title 22 of the Oklahoma Statutes, for  
19 a minimum of thirty (30) days, or

20           b. placement in the custody of the Department of  
21 Corrections for not less than one (1) year and not to  
22 exceed twenty (20) years and a fine of not more than  
23 Five Thousand Dollars (\$5,000.00), or  
24

1 c. treatment, imprisonment and a fine within the  
2 limitations prescribed in subparagraphs a and b of  
3 this paragraph.

4 However, if the person does not undergo residential or inpatient  
5 treatment pursuant to subsection G of this section the person shall  
6 serve a term of imprisonment of at least ten (10) days.

7 5. Any person who, after a previous conviction of a violation  
8 of murder in the second degree or manslaughter in the first degree  
9 in which the death was caused as a result of driving under the  
10 influence of alcohol or other intoxicating substance, is convicted  
11 of a violation of this section shall be guilty of a felony and shall  
12 be punished by imprisonment in the custody of the Department of  
13 Corrections for not less than five (5) years and not to exceed  
14 twenty (20) years, and a fine of not more than Ten Thousand Dollars  
15 (\$10,000.00).

16 6. Provided, however, a conviction from another state shall not  
17 be used to enhance punishment pursuant to the provisions of this  
18 subsection if that conviction is based on a blood or breath alcohol  
19 concentration of less than eight-hundredths (0.08).

20 7. In any case in which a defendant is charged with a second or  
21 subsequent driving under the influence of alcohol or other  
22 intoxicating substance offense within any municipality with a  
23 municipal court other than a court of record, the charge shall be  
24 presented to the county's district attorney and filed with the

1 district court of the county within which the municipality is  
2 located.

3 D. Any person who is convicted of a violation of driving under  
4 the influence with a blood or breath alcohol concentration of  
5 fifteen-hundredths (0.15) or more pursuant to this section shall be  
6 deemed guilty of aggravated driving under the influence. A person  
7 convicted of aggravated driving under the influence shall  
8 participate in an assessment and evaluation pursuant to subsection G  
9 of this section and shall comply with all recommendations for  
10 treatment. Such person shall be sentenced as provided in paragraph  
11 1, 2, 3, 4 or 5 of subsection C of this section and to:

12 1. Not less than one (1) year of supervision and periodic  
13 testing at the defendant's expense; and

14 2. An ignition interlock device or devices, as provided by  
15 subparagraph n of paragraph 1 of subsection A of Section 991a of  
16 Title 22 of the Oklahoma Statutes, for a minimum of ninety (90)  
17 days.

18 E. When a person is sentenced to imprisonment in the custody of  
19 the Department of Corrections, the person shall be processed through  
20 the Lexington Assessment and Reception Center or at a place  
21 determined by the Director of the Department of Corrections. The  
22 Department of Corrections shall classify and assign the person to  
23 one or more of the following:  
24

1           1. The Department of Mental Health and Substance Abuse Services  
2 pursuant to paragraph 1 of subsection A of Section 612 of Title 57  
3 of the Oklahoma Statutes; or

4           2. A correctional facility operated by the Department of  
5 Corrections with assignment to substance abuse treatment.  
6 Successful completion of a Department-of-Corrections-approved  
7 substance abuse treatment program shall satisfy the recommendation  
8 for a ten-hour or twenty-four-hour alcohol and drug substance abuse  
9 course or treatment program or both. Successful completion of an  
10 approved Department of Corrections substance abuse treatment program  
11 may precede or follow the required assessment.

12           F. The Department of Public Safety is hereby authorized to  
13 reinstate any suspended or revoked driving privilege when the person  
14 meets the statutory requirements which affect the existing driving  
15 privilege.

16           G. Any person who is found guilty of a violation of the  
17 provisions of this section shall be ordered to participate in an  
18 alcohol and drug substance abuse evaluation and assessment program  
19 offered by a certified assessment agency or certified assessor for  
20 the purpose of evaluating and assessing the receptivity to treatment  
21 and prognosis of the person and shall follow all recommendations  
22 made in the assessment and evaluation for treatment. The court  
23 shall order the person to reimburse the agency or assessor for the  
24 evaluation and assessment. Payment shall be remitted by the

1 defendant or on behalf of the defendant by any third party;  
2 provided, no state-appropriated funds are utilized. The fee for an  
3 evaluation and assessment shall be the amount provided in subsection  
4 C of Section 3-460 of Title 43A of the Oklahoma Statutes. The  
5 evaluation and assessment shall be conducted at a certified  
6 assessment agency, the office of a certified assessor or at another  
7 location as ordered by the court. The agency or assessor shall,  
8 within seventy-two (72) hours from the time the person is evaluated  
9 and assessed, submit a written report to the court for the purpose  
10 of assisting the court in its sentencing determination. The court  
11 shall, as a condition of any sentence imposed, including deferred  
12 and suspended sentences, require the person to participate in and  
13 successfully complete all recommendations from the evaluation, such  
14 as an alcohol and substance abuse treatment program pursuant to  
15 Section 3-452 of Title 43A of the Oklahoma Statutes. If such report  
16 indicates that the evaluation and assessment shows that the  
17 defendant would benefit from a ten-hour or twenty-four-hour alcohol  
18 and drug substance abuse course or a treatment program or both, the  
19 court shall, as a condition of any sentence imposed, including  
20 deferred and suspended sentences, require the person to follow all  
21 recommendations identified by the evaluation and assessment and  
22 ordered by the court. No person, agency or facility operating an  
23 evaluation and assessment program certified by the Department of  
24 Mental Health and Substance Abuse Services shall solicit or refer

1 any person evaluated and assessed pursuant to this section for any  
2 treatment program or substance abuse service in which such person,  
3 agency or facility has a vested interest; however, this provision  
4 shall not be construed to prohibit the court from ordering  
5 participation in or any person from voluntarily utilizing a  
6 treatment program or substance abuse service offered by such person,  
7 agency or facility. If a person is sentenced to imprisonment in the  
8 custody of the Department of Corrections and the court has received  
9 a written evaluation report pursuant to the provisions of this  
10 subsection, the report shall be furnished to the Department of  
11 Corrections with the judgment and sentence. Any evaluation and  
12 assessment report submitted to the court pursuant to the provisions  
13 of this subsection shall be handled in a manner which will keep such  
14 report confidential from the general public's review. Nothing  
15 contained in this subsection shall be construed to prohibit the  
16 court from ordering judgment and sentence in the event the defendant  
17 fails or refuses to comply with an order of the court to obtain the  
18 evaluation and assessment required by this subsection. If the  
19 defendant fails or refuses to comply with an order of the court to  
20 obtain the evaluation and assessment, the Department of Public  
21 Safety shall not reinstate driving privileges until the defendant  
22 has complied in full with such order. Nothing contained in this  
23 subsection shall be construed to prohibit the court from ordering

24

1 judgment and sentence and any other sanction authorized by law for  
2 failure or refusal to comply with an order of the court.

3 H. Any person who is found guilty of a violation of the  
4 provisions of this section may be required by the court to attend a  
5 victims impact panel program, as defined in subsection H of Section  
6 991a of Title 22 of the Oklahoma Statutes, if such a program is  
7 offered in the county where the judgment is rendered, and to pay a  
8 fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty  
9 Dollars (\$60.00) as set by the governing authority of the program  
10 and approved by the court to the program to offset the cost of  
11 participation by the defendant, if in the opinion of the court the  
12 defendant has the ability to pay such fee.

13 I. Any person who is found guilty of a felony violation of the  
14 provisions of this section shall be required to submit to electronic  
15 monitoring as authorized and defined by Section 991a of Title 22 of  
16 the Oklahoma Statutes.

17 J. Any person who is found guilty of a violation of the  
18 provisions of this section who has been sentenced by the court to  
19 perform any type of community service shall not be permitted to pay  
20 a fine in lieu of performing the community service.

21 K. When a person is found guilty of a violation of the  
22 provisions of this section, the court shall order, in addition to  
23 any other penalty, the defendant to pay a one-hundred-dollar  
24 assessment to be deposited in the Drug Abuse Education and Treatment



1 Revolving Fund created in Section 2-503.2 of Title 63 of the  
2 Oklahoma Statutes, upon collection.

3 L. 1. When a person is eighteen (18) years of age or older,  
4 and is the driver, operator, or person in physical control of a  
5 vehicle, and is convicted of violating any provision of this section  
6 while transporting or having in the motor vehicle any child less  
7 than eighteen (18) years of age, the fine shall be enhanced to  
8 double the amount of the fine imposed for the underlying driving  
9 under the influence (DUI) violation which shall be in addition to  
10 any other penalties allowed by this section.

11 2. Nothing in this subsection shall prohibit the prosecution of  
12 a person pursuant to Section 852.1 of Title 21 of the Oklahoma  
13 Statutes who is in violation of any provision of this section or  
14 Section 11-904 of this title.

15 M. Any plea of guilty, nolo contendere or finding of guilt for  
16 a violation of this section or a violation pursuant to the  
17 provisions of any law of this state or another state prohibiting the  
18 offenses provided for in this section, Section 11-904 of this title,  
19 or paragraph 4 of subsection A of Section 852.1 of Title 21 of the  
20 Oklahoma Statutes, shall constitute a conviction of the offense for  
21 the purpose of this section; provided, any deferred judgment shall  
22 only be considered to constitute a conviction for a period of ten  
23 (10) years following the completion of any court-imposed  
24 probationary term.

1 N. If qualified by knowledge, skill, experience, training or  
2 education, a witness shall be allowed to testify in the form of an  
3 opinion or otherwise solely on the issue of impairment, but not on  
4 the issue of specific alcohol concentration level, relating to the  
5 following:

6 1. The results of any standardized field sobriety test  
7 including, but not limited to, the horizontal gaze nystagmus (HGN)  
8 test administered by a person who has completed training in  
9 standardized field sobriety testing; ~~or~~

10 2. Whether a person was under the influence of one or more  
11 impairing substances and the category of such impairing substance or  
12 substances. A witness who has received training and holds a current  
13 certification as a drug recognition expert shall be qualified to  
14 give the testimony in any case in which such testimony may be  
15 relevant; or

16 3. The results of screening tests, whether for the presence of  
17 alcohol or other intoxicating substances, approved by the Board of  
18 Tests for Alcohol and Drug Influence.

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

21 Section 11-902a. A. No person shall knowingly authorize or  
22 permit a motor vehicle owned or under the control of that person  
23 which is not equipped with an ignition interlock device to be driven  
24 upon any street or highway of this state by any person who is

1 required to have an ignition interlock device installed upon the  
2 vehicle of that person.

3 B. No person shall make an overt or conscious attempt to  
4 physically disable, disconnect or wire around an ignition interlock  
5 device, unless certified pursuant to rule or Oklahoma Statutes, or  
6 intentionally fail to return an ignition interlock device when it is  
7 no longer required in the vehicle or upon request by the owner of  
8 the device.

9 C. No person granted permission to drive a motor vehicle on the  
10 condition of installation of an ignition interlock device shall  
11 drive any vehicle not equipped with an ignition interlock device  
12 unless driving an employer's vehicle in accordance with Section  
13 754.1 or subsection A of Section 6-212.3 of this title.

14 A violation of this section shall be a misdemeanor and shall be  
15 punishable by a fine of not more than Five Hundred Dollars (\$500.00)  
16 or by imprisonment in the county jail for not more than six (6)  
17 months, or by both such fine and imprisonment.

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

20 Section 751. A. 1. Any person who operates a motor vehicle  
21 upon the public roads, highways, streets, turnpikes or other public  
22 place or upon any private road, street, alley or lane which provides  
23 access to one or more single or multi-family dwellings within this  
24 state shall be deemed to have given consent to a test or tests of

1 such person's blood or breath, for the purpose of determining the  
2 alcohol concentration as defined in Section 756 of this title, and  
3 such person's blood, saliva or urine for determining the presence or  
4 concentration of any other intoxicating substance therein as defined  
5 in this section, if arrested for any offense arising out of acts  
6 alleged to have been committed while the person was operating or in  
7 actual physical control of a motor vehicle upon the public roads,  
8 highways, streets, turnpikes or other public place or upon any  
9 private road, street, alley or lane which provides access to one or  
10 more single or multi-family dwellings while under the influence of  
11 alcohol or other intoxicating substance, or the combined influence  
12 of alcohol and any other intoxicating substance, or if the person is  
13 involved in a traffic accident that resulted in the immediate death  
14 or serious injury of any person and is removed from the scene of the  
15 accident to a hospital or other health care facility outside the  
16 State of Oklahoma before a law enforcement officer can effect an  
17 arrest.

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

22       3. As used in this title, the term "other intoxicating  
23 substance" shall mean any controlled dangerous substance as defined  
24 in the Uniform Controlled Dangerous Substances Act and any other

1 substance, other than alcohol, which is capable of being ingested,  
2 inhaled, injected or absorbed into the human body and is capable of  
3 adversely affecting the central nervous system, vision, hearing or  
4 other sensory or motor functions.

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

12 ~~In the event the law enforcement agency does not designate the~~  
13 ~~test to be administered, breath Breath shall be the substance tested~~  
14 ~~for alcohol concentration absent a determination by the arresting~~  
15 ~~officer that a blood test is preferable in accordance with the~~  
16 ~~provisions of this section. Blood may also be tested to determine~~  
17 ~~the alcohol concentration or the presence or concentration of other~~  
18 ~~intoxicating substances or a combination thereof in the event ~~that~~~~  
19 ~~breath:~~

20 1. There is evidence of intoxication by substances other than  
21 alcohol, or a combination of alcohol and other intoxicating  
22 substances;

23 2. Breath cannot be tested to determine the alcohol  
24 concentration thereof because of the ~~lack~~ unavailability of an

1 approved device or qualified person to administer a breath test ~~or~~  
2 because;

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

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

8 5. The officer is required to obtain medical clearance before  
9 surrendering custody to jail personnel.

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

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

19 ~~D.~~ Any person who is unconscious or otherwise incapable of  
20 refusing to submit to a test of such person's blood or breath to  
21 determine the alcohol concentration thereof, or to a test of such  
22 person's blood, saliva or urine to determine the presence or  
23 concentration of any other intoxicating substance therein, shall be  
24

1 deemed not to have withdrawn the consent provided by subsection A of  
2 this section, and such test may be administered as provided herein.

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

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

20 ~~E. D.~~ In addition to any test designated by the arresting  
21 officer, the arrested person ~~may also designate any~~ is entitled to  
22 an additional blood test to be administered to determine the  
23 concentration of alcohol, or the presence or concentration of any  
24 other intoxicating substance or the combination of alcohol and any

1 other intoxicating substance. The cost of such additional test  
2 shall be at the expense of the arrested person.

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

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

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

17 Section 752. A. Only a licensed medical doctor, licensed  
18 osteopathic physician, licensed chiropractic physician, registered  
19 nurse, licensed practical nurse, physician's assistant, certified by  
20 the State Board of Medical Licensure and Supervision, an employee of  
21 a hospital or other health care facility authorized by the hospital  
22 or health care facility to withdraw blood, or ~~other qualified person~~  
23 ~~authorized by the Board of Tests for Alcohol and Drug Influence~~  
24 personnel licensed in accordance with Section 1-2505 of Title 63 of



1 the Oklahoma Statutes as Intermediate Emergency Medical Technicians.  
2 Advanced Emergency Medical Technicians or Paramedics acting at the  
3 request of a law enforcement officer may withdraw blood for the  
4 purpose of ~~having a determination made of its~~ determining the  
5 presence and concentration of alcohol or the presence or  
6 ~~concentration of~~ other intoxicating substance, or a combination  
7 thereof. Only qualified persons authorized by the Board may collect  
8 breath, saliva or urine, or administer tests of breath under the  
9 provisions of this title.

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

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

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

17 3. Signed by a duly authorized peace officer that the person  
18 whose blood is to be withdrawn has been placed under arrest and that  
19 the officer has probable cause to believe that the person, while  
20 intoxicated, has operated a motor vehicle in such manner as to have  
21 caused the death or serious physical injury of another person, or  
22 the person has been involved in a traffic accident and has been  
23 removed from the scene of the accident that resulted in the death or  
24 great bodily injury, as defined in subsection B of Section 646 of

1 Title 21 of the Oklahoma Statutes, of any person to a hospital or  
2 other health care facility outside the State of Oklahoma before the  
3 law enforcement officer was able to effect an arrest for such  
4 offense; or

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

15 C. No person specified in subsection A of this section, no  
16 employer of such person, and no hospital or other health care  
17 facility where blood is withdrawn shall incur any civil or criminal  
18 liability as a result of the proper withdrawal of blood when acting  
19 at the request of a law enforcement officer by the provisions of  
20 Section 751 or 753 of this title, or when acting in reliance upon a  
21 signed statement or court order as provided in this section, if the  
22 act is performed in a reasonable manner according to generally  
23 accepted clinical practice. No person specified in subsection A of  
24 this section shall incur any civil or criminal liability as a result

1 of the proper collection of breath, saliva or urine when acting at  
2 the request of a law enforcement officer under the provisions of  
3 Section 751 or 753 of this title or when acting pursuant to a court  
4 order.

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

12 E. When blood is ~~withdrawn or saliva or urine is~~ collected for  
13 testing of its alcohol concentration or other intoxicating substance  
14 presence or concentration, at the request of a law enforcement  
15 officer, a sufficient quantity of the same specimen shall be  
16 obtained to enable the tested person, at his or her own option and  
17 expense, to have an independent analysis made of such specimen. The  
18 excess blood, ~~saliva or urine~~ specimen shall be retained by a  
19 laboratory approved by the Board, in accordance with the rules and  
20 regulations of the Board, or by a laboratory that is exempt from the  
21 Board rules pursuant to Section 759 of this title, for sixty (60)  
22 days from the date of collection. At any time within that period,  
23 the tested person or his or her attorney may direct that such blood,  
24 saliva or urine specimen be sent or delivered to a laboratory of his

1 or her own choosing and approved by the Board for an independent  
2 analysis. Neither the tested person, nor any agent of such person,  
3 shall have access to the additional blood, saliva or urine specimen  
4 prior to the completion of the independent analysis, except the  
5 analyst performing the independent analysis and agents of the  
6 analyst.

7 ~~F. When a test of breath is performed for the purpose of~~  
8 ~~determining the alcohol concentration thereof, except when such test~~  
9 ~~is performed by means of an automated analyzer as designated by the~~  
10 ~~Board, a sufficient quantity of breath, or of the alcohol content of~~  
11 ~~a fixed or measured quantity of breath, shall be obtained, in~~  
12 ~~accordance with the rules and regulations of the Board, to enable~~  
13 ~~the tested person, at his or her own option and expense, to have an~~  
14 ~~independent analysis made of such specimen. The excess specimen of~~  
15 ~~breath, or of its alcohol content, shall be retained by the law~~  
16 ~~enforcement agency employing the arresting officer, in accordance~~  
17 ~~with the rules and regulations of the Board, for sixty (60) days~~  
18 ~~from the date of collection. At any time within that period, the~~  
19 ~~tested person, or his or her attorney, may direct that such specimen~~  
20 ~~be sent or delivered to a laboratory of his or her own choosing and~~  
21 ~~approved by the Board for an independent analysis. Neither the~~  
22 ~~tested person, nor any agent of such person, shall have access to~~  
23 ~~the additional specimen of breath, or of its alcohol content, prior~~  
24 ~~to the completion of the independent analysis thereof, except the~~

1 ~~analyst performing the independent analysis and agents of the~~  
2 ~~analyst.~~

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

24

1        ~~H.~~ G. Tests of blood or breath for the purpose of determining  
2 the alcohol concentration thereof, and tests of blood, saliva or  
3 urine for the purpose of determining the presence or concentration  
4 of any other intoxicating substance therein, under the provisions of  
5 this title, whether administered by or at the direction of a law  
6 enforcement officer or administered independently, at the option of  
7 the tested person, on the excess specimen of such person's blood,  
8 ~~breath, saliva or urine,~~ to be considered valid and admissible in  
9 evidence under the provisions of this title, shall have been  
10 administered or performed in accordance with the rules and  
11 regulations of the Board, or performed by a laboratory that is  
12 exempt from the Board rules pursuant to Section 759 of this title.

13        ~~F.~~ H. Any person who has been arrested for any offense arising  
14 out of acts alleged to have been committed while the person was  
15 operating or in actual physical control of a motor vehicle while  
16 under the influence of alcohol, any other intoxicating substance or  
17 the combined influence of alcohol and any other intoxicating  
18 substance who is not requested by a law enforcement officer to  
19 submit to a test shall be entitled to have an independent test of  
20 his or her blood, ~~breath, saliva or urine which is appropriate as~~  
21 ~~determined by the Board~~ for the purpose of determining its alcohol  
22 concentration or the presence or concentration of any other  
23 intoxicating substance therein, performed by a person of his or her  
24 own choosing who is qualified as stipulated in this section. The

1 arrested person shall bear the responsibility for making all  
2 necessary arrangements for the administration of such independent  
3 test and for the independent analysis of any specimens obtained, and  
4 bear all costs thereof. The failure or inability of the arrested  
5 person to obtain an independent test shall not preclude the  
6 admission of other competent evidence bearing upon the question of  
7 whether such person was under the influence of alcohol, or any other  
8 intoxicating substance or the combined influence of alcohol and any  
9 other intoxicating substance.

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

- 16 1. The tested person, or his or her attorney;
- 17 2. The Commissioner of Public Safety; and
- 18 3. The Fatality Analysis Reporting System (FARS) analyst of the  
19 state, upon request.

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

22 J. At administrative hearings, appeals of administrative  
23 hearings and preliminary hearings reports of the collection of  
24 blood, saliva or urine for the purpose of determining the presence

1 or concentration of alcohol, other intoxicating substances or a  
2 combination thereof shall be admissible, self-authenticating without  
3 the testimony of the person collecting the blood, saliva or urine  
4 and prima facie evidence that the collection was performed in  
5 accordance with the rules of the Board of Tests for Alcohol and Drug  
6 Influence.

7 K. At administrative hearings, appeals of administrative  
8 hearings and preliminary hearings reports of the analysis of blood,  
9 saliva or urine for purposes of determining the presence of  
10 concentration of alcohol, other intoxicating substances or a  
11 combination thereof shall be admissible and self-authenticating  
12 without the testimony of the person analyzing the blood, saliva or  
13 urine and prima facie evidence that the analysis was performed in  
14 accordance with the rules of the Board of Tests for Alcohol and Drug  
15 Influence.

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

19 Section 753. A. If a conscious person under arrest refuses to  
20 submit to testing of his or her blood or breath for the purpose of  
21 determining the alcohol concentration thereof, or to a test of his  
22 or her blood, saliva or urine for the purpose of determining the  
23 presence or concentration of any other intoxicating substance, or  
24 the combined influence of alcohol and any other intoxicating



1 substance, none shall be given except upon the issuance of a search  
2 warrant or unless the investigating officer has probable cause to  
3 believe that the person under arrest, while impaired or intoxicated,  
4 has operated the motor vehicle in such a manner as to have caused  
5 the death or serious physical injury of any other person or persons.  
6 In such event, such test otherwise authorized by law may be made in  
7 the same manner as if a search warrant had been issued for such test  
8 or tests. ~~The sample shall be taken in a medically acceptable~~  
9 ~~manner as authorized by Section 752 of this title.~~ The Commissioner  
10 of Public Safety, upon the receipt of a sworn report of the law  
11 enforcement officer that the officer had reasonable grounds to  
12 believe the arrested person had been driving or was in actual  
13 physical control of a motor vehicle upon the public roads, highways,  
14 streets, turnpikes or other public place of this state while under  
15 the influence of alcohol, any other intoxicating substance, or the  
16 combined influence of alcohol and any other intoxicating substance  
17 and that the person had refused to submit to the test or tests,  
18 shall revoke the license to drive and any nonresident operating  
19 privilege for a period as provided by Section 6-205.1 of this title.  
20 If the person is a resident or a nonresident without a license or  
21 permit to operate a motor vehicle in this state, the Commissioner of  
22 Public Safety shall deny to the person the issuance of a license or  
23 permit for a period as provided by Section 6-205.1 of this title  
24 subject to a review as provided in Section 754 of this title. The

1 revocation or denial shall become effective ~~thirty (30)~~ forty-five  
2 (45) days after the arrested person is given written notice thereof  
3 by the officer or by the Department as provided in Section 754 of  
4 this title.

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

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

10 2. ~~The Department receives a written blood or breath test~~  
11 ~~report that reflects the arrested person did not have any measurable~~  
12 ~~quantity of alcohol, any other intoxicating substance, or the~~  
13 ~~combination of alcohol and any other intoxicating substance in the~~  
14 ~~arrested person's blood or breath.~~

15 It shall be a misdemeanor, punishable by a fine of not more than  
16 One Thousand Dollars (\$1,000.00) and not more than ten (10) days in  
17 jail, or by both fine and imprisonment, for a conscious person under  
18 arrest for driving or being in actual physical control of a motor  
19 vehicle upon the public roads, highways, streets, turnpikes or other  
20 public place or upon any private road, street, alley or lane which  
21 provides access to one or more single or multi-family dwellings  
22 within this state to refuse to submit to a test of the person's  
23 breath for the purpose of determining the alcohol concentration  
24 thereof.

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

3 Section 754. A. Any arrested person who is under twenty-one  
4 (21) years of age and has any measurable quantity of alcohol in the  
5 person's blood or breath, or any person twenty-one (21) years of age  
6 or older whose alcohol concentration is eight-hundredths (0.08) or  
7 more as shown by a breath test administered according to the  
8 provisions of this title, or any arrested person who has refused to  
9 submit to a breath or blood test, shall immediately surrender his or  
10 her driver license, permit or other evidence of driving privilege to  
11 the arresting law enforcement officer. ~~The~~ Except in cases where  
12 the arrested person submitted to a test of their blood, the officer  
13 shall seize any driver license, permit, or other evidence of driving  
14 privilege surrendered by or found on the arrested person during a  
15 search. The evidence of driving privilege seized by the officer  
16 shall be delivered to the Department of Public Safety. The  
17 Department will shred or otherwise destroy the evidence of driving  
18 privilege upon receipt thereof.

19 B. If the evidence of driving privilege surrendered to or  
20 seized by the officer has not expired and otherwise appears valid,  
21 the officer shall issue to the arrested person a dated receipt for  
22 that driver license, permit, or other evidence of driving privilege  
23 on a form prescribed by the Department of Public Safety. This  
24 receipt shall be recognized as a driver license and shall authorize

1 the arrested person to operate a motor vehicle for a period not to  
2 exceed ~~thirty (30)~~ forty-five (45) days. The receipt form shall  
3 contain and constitute a notice of revocation of driving privilege  
4 by the Department effective in ~~thirty (30)~~ forty-five (45) days.  
5 Service is effective when the notice of revocation of driving  
6 privilege is delivered to the arrested person, the custodian of the  
7 arrested person at a detention facility or a health care provider  
8 attending to the arrested person at a medical facility. The  
9 evidence of driving privilege and a copy of the receipt form issued  
10 to the arrested person shall be attached to the sworn report of the  
11 officer and shall be submitted by mail or in person to the  
12 Department within seventy-two (72) hours of the issuance of the  
13 receipt. The failure of the officer to timely file this report  
14 shall not affect the authority of the Department to revoke the  
15 driving privilege of the arrested person.

16 C. Upon receipt of a written blood or breath test report  
17 reflecting that the arrested person, if under twenty-one (21) years  
18 of age, had any measurable quantity of alcohol in the person's blood  
19 or breath, or, if the arrested person is twenty-one (21) years of  
20 age or older, a blood or breath alcohol concentration of eight-  
21 hundredths (0.08) or more, accompanied by a sworn report from a law  
22 enforcement officer that the officer had reasonable grounds to  
23 believe the arrested person had been operating or was in actual  
24 physical control of a motor vehicle while under the influence of

1 alcohol as prohibited by law, the Department shall revoke or deny  
2 the driving privilege of the arrested person for a period as  
3 provided by Section 6-205.1 of this title, except those individuals  
4 qualified for, and accepted into, the Impaired Driving  
5 Accountability Program. Revocation or denial of the driving  
6 privilege of the arrested person shall become effective ~~thirty (30)~~  
7 forty-five (45) days after the arrested person is given written  
8 notice thereof by the officer as provided in this section or by the  
9 Department as provided in Section 2-116 of this title.

10 D. Upon the written request of a person whose driving privilege  
11 has been revoked or denied by notice given in accordance with this  
12 section or Section 2-116 of this title, the Department shall grant  
13 the person an opportunity to be heard if the request is received by  
14 the Department within ~~fifteen (15)~~ ten (10) days after the notice.  
15 The sworn report of the officer, together with the results of any  
16 test or tests, or evidence of the person's refusal to submit to  
17 test, shall be deemed true, absent any facial deficiency, ~~should the~~  
18 ~~requesting person fail to appear at the scheduled hearing.~~ A Except  
19 when the person has refused to submit to testing of his or her blood  
20 or breath for the purpose of determining alcohol concentration  
21 thereof, or to a test of his or her blood, saliva or urine for the  
22 purpose of determining the presence or concentration of any other  
23 intoxicating substance or the combined influence of alcohol and any  
24 other intoxicating substance, a timely request shall stay the order

1 of the Department until the disposition of the hearing unless the  
2 person is under cancellation, denial, suspension or revocation for  
3 some other reason. The Department may issue a temporary driving  
4 permit pending disposition of the hearing or admission into the  
5 Impaired Driver Accountability Program, if the person is otherwise  
6 eligible. If the hearing request is not timely filed, the  
7 revocation or denial shall be sustained.

8 E. 1. Upon receipt of the officer's sworn report and related  
9 test result, the Department shall perform a facial review of the  
10 report and related test results. The scope of the facial review  
11 shall be strictly limited to determine if the report and related  
12 test results set forth sufficient information for the Department to  
13 determine that:

- 14 a. the officer had reasonable grounds to believe the  
15 person had been operating or was in actual physical  
16 control of a vehicle upon the public roads, highways,  
17 streets, turnpikes or other public place of this state  
18 while under the influence of alcohol, any other  
19 intoxicating substance, or the combined influence of  
20 alcohol and any other intoxicating substance as  
21 prohibited by law,
- 22 b. the person was placed under arrest,
- 23 c. if requested, the person was not denied an independent  
24 blood test,

- 1       d. the specimen was obtained from the person within two  
2       (2) hours of the arrest of the person,
- 3       e. the person, if under twenty-one (21) years of age, was  
4       advised that driving privileges would be revoked or  
5       denied if the test result reflected the presence of  
6       any measurable quantity of alcohol,
- 7       f. the person, if twenty-one (21) years of age or older,  
8       was advised that driving privileges would be revoked  
9       or denied if the test result reflected an alcohol  
10       concentration of eight-hundredths (0.08) or more, and
- 11       g. the test result in fact reflects the alcohol  
12       concentration.

13       2. Upon receipt of the officer's sworn report indicating a  
14       refusal by the person to submit to a breath or blood test, the  
15       Department shall perform a facial review of the report. The scope  
16       of the facial review is to determine if the report sets forth  
17       sufficient information for the Department to determine that:

- 18       a. the officer had reasonable grounds to believe that  
19       person had been operating or was in actual physical  
20       control of a vehicle upon the public roads, highways,  
21       streets, turnpikes or other public place of this state  
22       while under the influence of alcohol, any other  
23       intoxicating substance, or the combined influence of

1 alcohol and any other intoxicating substance as  
2 prohibited by law,

3 b. the person was placed under arrest,

4 c. the person was informed that driving privileges would  
5 be revoked or denied if the person refused to submit  
6 to the test or tests,

7 d. the person refused to submit to the test or tests and  
8 did not recant;

9 3. Upon completion of the facial review, if it is determined by  
10 the Department that the documents fail to demonstrate any of the  
11 required elements in this subsection, the revocation shall be set  
12 aside. Notice of the revocation set aside will be sent to the  
13 address of the person on record with the Department or legal  
14 representative of record of the person.

15 4. Upon completion of the facial review, if it is deemed by the  
16 Department that the documents taken as true, meet the requirements  
17 for revocation of the license of the person, the revocation will be  
18 sustained. If the person has requested a hearing within ten (10)  
19 days of the arrest, the hearing will be scheduled and notice sent to  
20 the address of the person on record with the Department or the legal  
21 representative of record of the person.

22 F. 1. At any hearing held relevant to this section, a report  
23 of the findings of the laboratory of the Oklahoma State Bureau of  
24 Investigation, the medical examiner's report of investigation or



1 autopsy report, or a laboratory report from a forensic laboratory  
2 operated by the State of Oklahoma or any political subdivision  
3 thereof, which has been made available to the person by the  
4 Commissioner or an authorized representative at least five (5) days  
5 prior to the hearing, with reference to all or part of the evidence  
6 submitted, ~~when certified as correct by the persons making the~~  
7 ~~report~~ shall be received as evidence of the facts and findings  
8 stated, if relevant and otherwise admissible in evidence. ~~If the~~  
9 ~~report is deemed relevant by either party, the~~ The court shall admit  
10 the report without the testimony of the person making the report,  
11 ~~unless the court, pursuant to this subsection, orders the person to~~  
12 ~~appear.~~

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

23 ~~3. The court, upon motion of either party, shall order the~~  
24 ~~attendance of any person preparing a report submitted as evidence in~~

1 ~~the hearing when it appears there is a substantial likelihood that~~  
2 ~~material evidence not contained in the report may be produced by the~~  
3 ~~testimony of any person having prepared a report. The hearing shall~~  
4 ~~be held and, if sustained, an order issued not less than five (5)~~  
5 ~~days prior to the time when the testimony shall be required.~~

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

13 ~~F. The G. If timely requested, the hearing before the~~  
14 ~~Commissioner of Public Safety or a designated hearing officer shall~~  
15 ~~be conducted in the county of arrest or may be conducted by~~  
16 ~~telephone conference call. The hearing may be recorded and its~~  
17 ~~scope shall cover the issues of whether the officer had reasonable~~  
18 ~~grounds to believe the person had been operating or was in actual~~  
19 ~~physical control of a vehicle upon the public roads, highways,~~  
20 ~~streets, turnpikes or other public place of this state while under~~  
21 ~~the influence of alcohol, any other intoxicating substance, or the~~  
22 ~~combined influence of alcohol and any other intoxicating substance~~  
23 ~~as prohibited by law, and whether the person was placed under arrest~~  
24 ~~by any party provided that a transcript, if produced, is made~~

1 available to either party at least five (5) days prior to any  
2 scheduled district court appeal, at no cost to the other party. Any  
3 transcript, to be admissible, must be made at the time of the  
4 hearing by a certified shorthand reporter.

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

8 ~~a. if timely requested by the person, the person was not~~  
9 ~~denied a breath or blood test,~~

10 ~~b. the specimen was obtained from the person within two~~  
11 ~~(2) hours of the arrest of the person,~~

12 ~~c. the person, if under twenty-one (21) years of age, was~~  
13 ~~advised that driving privileges would be revoked or~~  
14 ~~denied if the test result reflected the presence of~~  
15 ~~any measurable quantity of alcohol,~~

16 ~~d. the person, if twenty-one (21) years of age or older,~~  
17 ~~was advised that driving privileges would be revoked~~  
18 ~~or denied if the test result reflected an alcohol~~  
19 ~~concentration of eight hundredths (0.08) or more, and~~

20 ~~e. the test result in fact reflects the alcohol~~  
21 ~~concentration.~~

22 ~~2. If the revocation or denial is based upon the refusal of the~~  
23 ~~person to submit to a breath or blood test, reflected in a sworn~~  
24

1 ~~report by a law enforcement officer, the scope of the hearing shall~~  
2 ~~also include whether:~~

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

7 The burden at the hearing is on the person to show cause as to  
8 why the Department should not take action on the license of the  
9 person for the circumstances contained in the sworn report, test  
10 result or other documentation relied upon by the Department to  
11 revoke the person's license. The scope of the hearing is limited to  
12 the issues considered during the facial review by the Department.

13 1. The person or the representative of the person may subpoena  
14 witnesses to be available for the telephonic hearing. Subpoenas may  
15 be issued pursuant to Section 2004.1 of Title 12 of the Oklahoma  
16 Statutes, including payment of witness fees.

17 2. A non-refundable hearing fee of Seventy-five Dollars  
18 (\$75.00), in the form of a certified check or money order, must be  
19 received by the Department within ten (10) days of the scheduled  
20 hearing. Hearing fees will be deposited to the Department of Public  
21 Safety Restricted Revolving Fund for support of the program.

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

1 SECTION 14. AMENDATORY 47 O.S. 2011, Section 754.1, as  
2 last amended by Section 4, Chapter 393, O.S.L. 2013 (47 O.S. Supp.  
3 2016, Section 754.1), is amended to read as follows:

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

13 B. As a prerequisite and condition of any modification, the  
14 person shall be required to have installed an ignition interlock  
15 device approved by the Board of Tests for Alcohol and Drug  
16 Influence, at the person's own expense, upon every motor vehicle  
17 operated by the person. A person whose revocation is modified may  
18 only operate motor vehicles equipped with an ignition interlock  
19 device. The Department shall require, as a condition of  
20 modification, the device to be installed upon any vehicle owned or  
21 leased, as reflected on the vehicle registration, by an employer of  
22 the person for use by the person, except when the employer requests  
23 the ignition interlock device not be installed. The request shall  
24 be in writing and notarized on the official letterhead of the

1 employer and provided by the person to the Department; provided, a  
2 request shall not be accepted by the Department under the following  
3 circumstances:

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

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

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

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

15 C. Upon the issuance of a modification order pursuant to this  
16 section or Section 755 of this title, or under the provisions of  
17 paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of  
18 subsection B of Section 6-205.1 of this title, for a violation of  
19 this title, the person shall pay a modification fee of One Hundred  
20 Seventy-five Dollars (\$175.00) to the Department. For each  
21 modification fee collected pursuant to the provisions of this  
22 subsection, One Hundred Dollars (\$100.00) shall be remitted to the  
23 State Treasurer to be credited to the General Revenue Fund in the  
24 State Treasury and Seventy-five Dollars (\$75.00) shall be remitted

1 to the State Treasurer to be credited to the Department of Public  
2 Safety Restricted Revolving Fund. All monies accruing to the credit  
3 of the Department of Public Safety Restricted Revolving Fund from  
4 modification fees shall be budgeted and expended solely for the  
5 purpose of administering the provisions of this section and Section  
6 755 of this title.

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

11 SECTION 15. AMENDATORY 47 O.S. 2011, Section 755, is  
12 amended to read as follows:

13 Section 755. Subpoenas will not be issued to Department of  
14 Public Safety employees not involved in the arrest or test of the  
15 person. If the revocation or denial is sustained, the person whose  
16 license or permit to drive or nonresident operating privilege has  
17 been revoked or denied may file a petition for appeal in the  
18 district court in the manner and subject to the proceedings provided  
19 for in Section 6-211 of this title. The district court may modify  
20 the revocation or denial when it is determined by the court that the  
21 person whose license or permit to drive has been revoked or denied  
22 has no other adequate means of transportation and may enter a  
23 written order directing the Department of Public Safety to allow  
24 driving, subject to the limitations of Section 6-205.1 of this title

1 and the requirement of an ignition interlock device as provided in  
2 Section 754.1 of this title; provided, any modification under this  
3 paragraph shall apply to Class D motor vehicles only.

4 SECTION 16. AMENDATORY 47 O.S. 2011, Section 756, is  
5 amended to read as follows:

6 Section 756. A. Upon the trial of any criminal action or  
7 proceeding arising out of acts alleged to have been committed by any  
8 person while driving or in actual physical control of a motor  
9 vehicle while under the influence of alcohol or any other  
10 intoxicating substance, or the combined influence of alcohol and any  
11 other intoxicating substance, evidence of the alcohol concentration  
12 in the blood or breath of the person as shown by analysis of the  
13 blood or breath of the person performed in accordance with the  
14 provisions of Sections 752 and 759 of this title or evidence of the  
15 presence or concentration of any other intoxicating substance as  
16 shown by analysis of such person's blood, breath, saliva, or urine  
17 specimens in accordance with the provisions of Sections 752 and 759  
18 of this title is admissible. Evidence that the person has refused  
19 to submit to either of ~~said~~ the analyses is also admissible. For  
20 the purpose of this title, when the person is under the age of  
21 twenty-one (21) years, evidence that there was, at the time of the  
22 test, any measurable quantity of alcohol is prima facie evidence  
23 that the person is under the influence of alcohol in violation of  
24



1 Section 11-906.4 of this title. For persons twenty-one years of age  
2 or older:

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

6 2. Evidence that there was, at the time of the test, an alcohol  
7 concentration in excess of five-hundredths (0.05) but less than  
8 eight-hundredths (0.08) is relevant evidence that the person's  
9 ability to operate a motor vehicle was impaired by alcohol.

10 However, no person shall be convicted of the offense of operating or  
11 being in actual physical control of a motor vehicle while such  
12 person's ability to operate such vehicle was impaired by alcohol  
13 solely because there was, at the time of the test, an alcohol  
14 concentration in excess of five-hundredths (0.05) but less than  
15 eight-hundredths (0.08) in the blood or breath of the person in the  
16 absence of additional evidence that such person's ability to operate  
17 such vehicle was affected by alcohol to the extent that the public  
18 health and safety was threatened or that ~~said~~ the person had  
19 violated a state statute or local ordinance in the operation of a  
20 motor vehicle; and

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

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

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

8 D. Upon the trial of any criminal action or proceeding arising  
9 out of acts alleged to have been committed by any person while  
10 driving or in actual physical control of a motor vehicle while under  
11 the influence of alcohol, the following shall constitute prima facie  
12 evidence that the test of the person's breath was validly  
13 administered in accordance with the rules of the Board of Tests for  
14 Alcohol and Drug Influence:

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

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

22 3. A report, test result or other documentation reflecting the  
23 results of two breath samples within 0.03g/210l of each other; or  
24

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

3       E. Results of the test of a person's breath, if admissible,  
4 shall be admitted without reference to measurement uncertainty.

5       F. Whatever the source, documents retained by the Board of  
6 Tests of Alcohol and Drug Influence to reflect maintenance on an  
7 instrument maintained by the Board for the measurement of alcohol  
8 concentration in a person's breath shall be admissible in any  
9 proceeding.

10       SECTION 17.        AMENDATORY        47 O.S. 2011, Section 757, is  
11 amended to read as follows:

12       Section 757. A. The provisions of Sections 751 through 761 of  
13 this title do not limit the introduction of any other competent  
14 evidence bearing on the question of whether the person was under the  
15 influence of alcohol or any other intoxicating substance, or the  
16 combined influence of alcohol and any other intoxicating substance.

17       B. If the court finds any of the administrative documentation  
18 upon which the Department based the revocation inadmissible, the  
19 court may sustain the revocation of driving privileges when the  
20 court finds:

- 21       1. The person's driving behavior endangered the driving public;
- 22       2. The officer had probable cause to arrest the person;
- 23       3. The person was arrested; or

1        4. The officer advised the person of the consequences of  
2 testing and refusing the test:

3            a. the person was not denied a test requested within two  
4                    (2) hours, or

5            b. the person refused the test.

6        SECTION 18.        AMENDATORY        47 O.S. 2011, Section 759, as  
7 last amended by Section 1, Chapter 125, O.S.L. 2015 (47 O.S. Supp.  
8 2016, Section 759), is amended to read as follows:

9        Section 759. A. There is hereby re-created, to continue until  
10 July 1, 2022, in accordance with the provisions of the Oklahoma  
11 Sunset Law, the Board of Tests for Alcohol and Drug Influence to be  
12 composed of the following members beginning July 1, 2015:

13            1. The Dean of the Oklahoma State University College of  
14 Osteopathic Medicine, or a designee;

15            2. The Dean of the University of Oklahoma College of Medicine,  
16 or a designee;

17            3. The Commissioner of Public Safety, or a designee;

18            4. The Director of the Oklahoma State Bureau of Investigation,  
19 or a designee;

20            5. The State Commissioner of Health, or a designee;

21            6. The Director of the Council on Law Enforcement Education and  
22 Training, or a designee;

23

24

1           7. One certified peace officer who is a member of a local law  
2 enforcement agency selected by the Oklahoma Sheriffs and Peace  
3 Officers Association; and

4           8. One person selected by the Oklahoma Association of Chiefs of  
5 Police.

6 Members shall serve without pay other than reimbursement of  
7 necessary and actual expenses as provided in the State Travel  
8 Reimbursement Act. Each member shall receive an appointment in  
9 writing which shall become a permanent part of the records of the  
10 Board. The chair and vice-chair shall be elected from the  
11 membership of the Board every two (2) years. The Board is  
12 authorized to appoint a State Director of Tests for Alcohol and Drug  
13 Influence and other employees, including, but not limited to,  
14 persons to conduct training and provide administrative assistance as  
15 necessary for the performance of its functions, subject to available  
16 funding and authorized full-time equivalent employee limitations.  
17 The Board may expend appropriated funds for purposes consistent with  
18 Sections 751 through 761 of this title and Sections 301 through 308  
19 of Title 3 of the Oklahoma Statutes. The Legislature shall  
20 appropriate funds to the Department of Public Safety for the support  
21 of the Board of Tests For Alcohol and Drug Influence and its  
22 employees, if any. Upon the transfer of any employees from the  
23 Alcohol Drug Countermeasures Unit of the Department of Public Safety  
24 to the Board of Tests For Alcohol and Drug Influence on July 1,

1 2003, all funds of the Unit appropriated and budgeted shall be  
2 transferred to the Board, and may be budgeted and expended to  
3 support the functions and personnel of the Board.

4 B. Collection and analysis of a person's blood, breath, saliva  
5 or urine, to be considered valid and admissible in evidence, whether  
6 performed by or at the direction of a law enforcement officer or at  
7 the request of the tested person, shall have been performed in  
8 compliance with the rules adopted by the Board of Tests for Alcohol  
9 and Drug Influence and by an individual possessing a valid permit  
10 issued by the Board for this purpose or shall have been performed by  
11 a laboratory accredited in Toxicology by the American Society of  
12 Crime Laboratory Directors/Laboratory Accreditation Board  
13 (ASCLD/LAB) or accredited by the American Board of Forensic  
14 Toxicology (ABFT). Collection and analysis of a person's breath to  
15 be considered valid and admissible in evidence shall have been  
16 performed by an individual possessing a valid permit issued by the  
17 Board of Tests for Alcohol and Drug Influence.

18 C. The Board of Tests for Alcohol and Drug Influence is  
19 authorized to approve laboratories for the analysis, provided by the  
20 provisions of this title, of specimens of blood, ~~breath~~, saliva and  
21 urine, and to administer a program for regular monitoring of such  
22 laboratories. The Board is authorized to prescribe uniform  
23 standards and conditions for, and to approve satisfactory methods,  
24 procedures, techniques, devices, equipment and records for tests and

1 analyses and to prescribe and approve the requisite education and  
2 training for the performance of such tests and analyses. The Board  
3 shall establish standards for and ascertain the qualifications and  
4 competence of individuals to administer and conduct such tests and  
5 analyses, and to issue permits to laboratories and to individuals  
6 which shall be subject to suspension or revocation at the discretion  
7 of the Board. The Board is authorized to prescribe uniform  
8 standards, conditions, methods, procedures, techniques, devices,  
9 equipment and records for the collection, handling, retention,  
10 storage, preservation and delivery of specimens of blood, ~~breath,~~  
11 saliva and urine obtained for the purpose of determining the alcohol  
12 concentration thereof or the presence or concentration of any other  
13 intoxicating substance therein. ~~The Board may take such other~~  
14 ~~actions as may be reasonably necessary or appropriate to effectuate~~  
15 ~~the purposes of Sections 751 through 761 of this title and Sections~~  
16 ~~301 through 308 of Title 3 of the Oklahoma Statutes, and may adopt,~~  
17 ~~amend and repeal such other rules consistent with this chapter as~~  
18 ~~the Board shall determine proper.~~ Laboratories accredited in  
19 Toxicology by the American Society of Crime Laboratory  
20 Directors/Laboratory Accreditation Board (ASCLD/LAB) or accredited  
21 by the American Board of Forensic Toxicology (ABFT) are exempt from  
22 the provisions of this subsection. The accreditation certificate of  
23 the laboratory shall be admissible and self-authenticating prima  
24 facie evidence of the laboratory's accreditation.

1       D. The Board is authorized to approve instruments for the  
2 purpose of determining the alcohol concentration of a person's  
3 breath. Such approval may be by resolution of the Board at an open  
4 meeting.

5       E. The State Director of Tests for Alcohol and Drug Influence  
6 is authorized to approve disposable materials related to the  
7 administration of breath or blood tests, including but not limited  
8 to mouthpieces, blood collection tubes, reference methods or  
9 controls. The State Director of Tests for Alcohol and Drug  
10 Influence is authorized to approve forms for the recording of  
11 results of breath and blood tests. The State Director of Tests for  
12 Alcohol and Drug Influence is authorized to approve methods,  
13 procedures, qualifications and training requirements and curricula  
14 for the administration of breath tests and related subject matters  
15 as directed by the Board to administer Sections 751 through 761 of  
16 this title and Sections 301 through 308 of Title 3 of the Oklahoma  
17 Statutes.

18       F. The Board may take such other actions as may be reasonably  
19 necessary or appropriate to effectuate the purposes of Section 751  
20 through 761 of this title and Sections 301 through 308 of Title 3 of  
21 the Oklahoma Statutes and may adopt, amend and repeal such other  
22 rules consistent with this chapter as the Board shall determine  
23 proper.



1        G. The Board shall promulgate rules adopting uniform standards  
2 and conditions and rules approving devices, equipment, methods,  
3 procedures, techniques, and records for screening tests administered  
4 for the purpose of determining the presence or concentration of  
5 alcohol or any other intoxicating substance in a person's blood,  
6 breath, saliva or urine. Such screening tests shall be performed in  
7 compliance with the rules adopted by the Board of Tests for Alcohol  
8 and Drug Influence.

9        ~~E.~~ H. The Board may set rules and charge appropriate fees for  
10 operations incidental to its required duties and responsibilities.

11        ~~F.~~ I. There is hereby created in the State Treasury a revolving  
12 fund for the Board of Tests for Alcohol and Drug Influence to be  
13 designated the "Board of Tests for Alcohol and Drug Influence  
14 Revolving Fund". The fund shall be a continuing fund, not subject  
15 to fiscal year limitations, and shall consist of monies received  
16 pursuant to the provisions of subsection E of this section and any  
17 funds previously deposited in the Board of Tests for Alcohol and  
18 Drug Influence Revolving Fund. All monies accruing to the credit of  
19 the fund are hereby appropriated and may be budgeted and expended by  
20 the Board of Tests for Alcohol and Drug Influence for operating  
21 expenses of the Board. Expenditures from the funds shall be made  
22 upon warrants issued by the State Treasurer against claims filed as  
23 prescribed by law with the Director of the Office of Management and  
24 Enterprise Services for approval and payment.

1 SECTION 19. This act shall become effective November 1, 2017.

2  
3 56-1-98 BH 1/19/2017 8:36:54 PM  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24