

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 643

By: David and Rader of the
Senate

and

Biggs of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to impaired driving; creating the
12 Impaired Driving Elimination Act 2 (IDEA2); stating
13 purpose of IDEA2; amending 47 O.S. 2011, Section 2-
14 116, which relates to notice requirements; clarifying
15 notice procedures; updating language; amending 47
16 O.S. 2011, Sections 6-204, 6-205, as amended by
17 Section 1, Chapter 279, O.S.L. 2013, 6-205.1, as
18 amended by Section 1, Chapter 393, O.S.L. 2013, 6-
19 212, as last amended by Section 3, Chapter 97, O.S.L.
20 2015 and 6-212.3, as last amended by Section 2,
21 Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016,
22 Sections 6-205, 6-205.1, 6-212 and 6-212.3), which
23 relate to revocation and reinstatement of driver
24 licenses; requiring surrender of driver license under
 certain circumstances; establishing time limitation
 for forwarding certain records; directing notice of
 deferred prosecution agreement be forwarded to
 Department of Public Safety; providing exemption from
 certain confidentiality requirement; expanding scope
 of driver license revocation requirements to include
 persons who receive certain sentences; deleting
 certain driver license revocation exception; adding
 internal statutory citation; deleting certain
 modification exception; providing exception to
 revocation requirement; increasing revocation
 periods; authorizing modified driver licenses under

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3 requirements; deleting outdated reinstatement fee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

1 penalty; clarifying instances in which a driver
2 license may be seized by law enforcement; directing
3 delivery of certain evidence to Department of Public
4 Safety; requiring destruction of evidence; increasing
5 time limitation for arrested persons to operate motor
6 vehicle; deleting revocation and administrative
7 hearing procedures; clarifying and deleting
8 procedures related to revocation modifications and
9 denials of driving privileges; providing list of
10 reports deemed admissible in criminal trials or
11 proceedings related to driving under the influence;
12 stating evidentiary and admissibility requirements
13 for documents and reports related to instruments used
14 to measure alcohol concentration; repealing 47 O.S.
15 2011, Section 755, which relates to procedures for
16 filing appeals; providing for noncodification; and
17 providing an effective date.

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

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

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

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

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

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

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

7 Section 2-116. Whenever the Department of Public Safety is
8 authorized or required to give any notice ~~under this act or other~~
9 ~~law regulating the operation of vehicles~~, unless a different method
10 of giving such notice is otherwise expressly prescribed, or agreed
11 upon in writing by the Department and the person receiving notice,
12 such notice shall be given either by personal delivery thereof to
13 the person to be so notified or by deposit in the United States mail
14 of such notice in an envelope with first class postage prepaid,
15 addressed to such person at the mailing address as shown by the
16 records of the Department. The giving of notice by mail is complete
17 upon the expiration of ten (10) days after ~~such~~ deposit of ~~said~~ the
18 notice in the United States mail. Proof of the giving of notice in
19 either such manner may be made by the certificate of any officer or
20 employee of the Department or affidavit of any person over eighteen
21 (18) years of age, naming the person to whom such notice was given
22 and specifying the ~~time~~ date, place and manner of the giving ~~thereof~~
23 of notice. Failure of the person to receive notice because of
24 failure to notify the Department of a change in his or her current

1 mailing address, as required by Section 6-116 of this title, or as
2 required by the rules of the Department, shall not be sufficient
3 grounds ~~for the person to protest the~~ to invalidate the giving of
4 notice.

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

7 Section 6-204. A. Whenever any person is convicted of, or
8 receives a deferred sentence for any offense for which this title
9 makes mandatory the revocation of the driving privilege of such
10 person by the Department as provided in Section 6-205 of this title,
11 the court in which ~~such~~ the conviction or deferred sentence occurred
12 may require the surrender to it of all ~~driver licenses~~ proof of
13 driving privileges then held by the person so convicted or sentenced
14 and the court shall thereupon forward the same together with a
15 record of such conviction or deferred sentence to the Department
16 within five (5) days after the conviction or deferred sentence
17 occurred.

18 B. Every court, including courts not of record, having
19 jurisdiction over offenses committed under this act, or any other
20 law of this state or municipal ordinance regulating the operation of
21 motor vehicles on highways, shall forward to the Department a record
22 of the conviction of any person in such court for a violation of any
23 such laws other than regulations governing standing or parking, and
24

1 may recommend the suspension of the driving privileges of the person
2 so convicted.

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

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

16 SECTION 5. AMENDATORY 47 O.S. 2011, Section 6-205, as
17 amended by Section 1, Chapter 279, O.S.L. 2013 (47 O.S. Supp. 2016,
18 Section 6-205), is amended to read as follows:

19 Section 6-205. A. The Department of Public Safety shall
20 ~~immediately~~ revoke the driving privilege of any person, whether
21 adult or juvenile, ~~upon receiving a record of conviction who,~~ in any
22 municipal, state or federal court within the United States, receives
23 a deferred sentence, or a conviction, when such conviction has
24

1 become final, or a deferred prosecution, for ~~of~~ any of the following
2 offenses, ~~when such conviction has become final:~~

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

5 2. Driving, operating or being in actual physical control of a
6 motor vehicle while under the influence of alcohol, any other
7 intoxicating substance, or the combined influence of alcohol and any
8 other intoxicating substance, ~~any violation of paragraph 1, 2, 3 or~~
9 ~~4 of~~ or any offense in subsection A of Section 11-902 of this title
10 or ~~any violation of~~ any offense in Section 11-906.4 of this title.

11 ~~However, the Department shall not additionally revoke the driving~~
12 ~~privileges of the person pursuant to this subsection if the driving~~
13 ~~privilege of the person has been revoked because of a test result or~~
14 ~~test refusal pursuant to Section 753 or 754 of this title arising~~
15 ~~from the same circumstances which resulted in the conviction unless~~
16 ~~the revocation because of a test result or test refusal is set~~
17 ~~aside;~~

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

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

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

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

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

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

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

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

16 10. Failure to obey a traffic control device as provided in
17 Section 11-202 or 11-803 of this title ~~or a stop sign~~ when such
18 failure results in great bodily injury to any other person; or

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

22 B. The first license revocation under any provision of this
23 section, except for paragraph 2, 6, 7 or 11 of subsection A of this
24

1 section, shall be for a period of one (1) year. Such period shall
2 not be modified.

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

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

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

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

24

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

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

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

19 1. The first license revocation pursuant to paragraph 2 of
20 subsection A of Section 6-205 of this title ~~or to Section 753 or 754~~
21 ~~of this title shall be for one hundred eighty (180) days~~ a minimum
22 period of one (1) year, which ~~may~~ shall be modified; provided, any
23 modification under this paragraph shall apply to Class D motor
24 vehicles only. Modification requires the issuance of a modified

1 driver license and the continuous installation of an ignition
2 interlock device or devices pursuant to Section 754.1 of this title
3 for a period of not less than one (1) year immediately preceding
4 reinstatement of the license. If the Department receives notice of
5 any verified ignition interlock violations, as determined by the
6 Board of Tests for Alcohol and Drug Influence, occurring within the
7 last one hundred eighty (180) days of the revocation period, the
8 revocation period shall be extended until such time the person
9 completes a violation free one hundred eighty (180) day period;

10 2. A revocation pursuant to paragraph 2 of subsection A of
11 Section 6-205 of this title, ~~or to Section 753 or 754 of this title~~
12 shall be for a minimum period of ~~one (1) year or longer if driving~~
13 ~~privileges are modified pursuant to the provisions of this paragraph~~
14 twenty-four (24) months, if within ten (10) years preceding the date
15 of arrest relating thereto, as shown by the records of the
16 Department:

17 a. a prior revocation commenced pursuant to paragraph 2
18 or 6 of subsection A of Section 6-205 of this title,
19 ~~or to Section 753 or 754 of this title~~ a revocation
20 because of a test result or test refusal, or previous
21 enrollment or completion of the Impaired Driver
22 Accountability Program pursuant to Section 6-212 of
23 this title, or

24

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

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

23 or

1 3. A revocation pursuant to paragraph 2 of subsection A of
2 Section 6-205 of this title, ~~or to Section 753 or 754 of this title~~
3 a revocation because of a test result or test refusal shall be for a
4 minimum period of three (3) years or longer forty-eight (48) months
5 ~~if driving privileges are modified pursuant to the provisions of~~
6 ~~this paragraph~~ if within ten (10) years preceding the date of arrest
7 relating thereto, as shown by the records of the Department:

8 a. two or more prior revocations commenced pursuant to
9 paragraph 2 or 6 of subsection A of Section 6-205 of
10 this title, or revocations because of a test result or
11 test refusal ~~to Section 753 or 754 of this title, or~~
12 previous completion of the Impaired Driver
13 Accountability Program pursuant to Section 6-212 of
14 this title,

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

23 c. any combination of two or more prior revocations, or
24 previous completion of the Impaired Driver

1 Accountability Program, or convictions as described in
2 subparagraphs a and b of this paragraph.

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

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

23 1. The first license revocation shall be for one hundred eighty
24 (180) days, which may be modified; provided, for license revocations

1 for a misdemeanor charge of possessing a controlled dangerous
2 substance, the provisions of this paragraph shall apply to any such
3 revocations by the Department on or after January 1, 1993; provided
4 further, any modification under this paragraph shall apply to Class
5 D motor vehicles only;

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

9 a. a prior revocation commenced pursuant to paragraph 2
10 or 6 of subsection A of Section 6-205 of this title,
11 ~~or under Section 753 or 754 of this title~~ a revocation
12 because of a test result or test refusal, previous
13 participation or completion of the Impaired Driver
14 Accountability Program pursuant to Section 6-212 of
15 this title, or

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

23 Such period shall not be modified; or
24

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

4 a. two or more prior revocations commenced pursuant to
5 paragraph 2 or 6 of subsection A of Section 6-205 of
6 this title, or ~~under Section 753 or 754 of this title~~
7 a revocation because of a test result or test refusal,
8 previous participation or completion of the Impaired
9 Driver Accountability Program pursuant to Section 6-
10 212 of this title,

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

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

21 Such period shall not be modified.

22 The revocation of the driving privilege of any person under this
23 subsection shall not run concurrently with any other withdrawal of
24 driving privilege resulting from a different incident and which

1 requires the driving privilege to be withdrawn for a prescribed
2 amount of time. A denial based on a conviction of any offense as
3 provided in paragraph 6 of subsection A of Section 6-205 of this
4 title shall become effective on the first day the convicted person
5 is otherwise eligible to apply for and be granted driving privilege
6 if the person was not eligible to do so at the time of the
7 conviction.

8 C. For the purposes of this subsection:

9 1. The term "conviction" includes a juvenile delinquency
10 adjudication by a court or any notification from a court pursuant to
11 Section 6-107.1 of this title; 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.

24

1 SECTION 7. 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 and the satisfaction of all terms and conditions of the revocation;

3 2. The person has paid to the Department:

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

12 b. (1) if such privilege is suspended or revoked because
13 of a test result or test refusal, or pursuant to
14 the provisions of Section 6-205, 6-205.1, 7-612,
15 ~~753, 754~~ or 761 of this title or pursuant to
16 subsection A of Section 7-605 of this title for a
17 conviction for failure to maintain the mandatory
18 motor vehicle insurance required by law or
19 pursuant to subsection B of Section 6-206 of this
20 title for a suspension other than for points
21 accumulation, a processing fee of Seventy-five
22 Dollars (\$75.00) for each such suspension or
23 revocation as shown by the Department's records,
24 and a special assessment trauma-care fee of Two

1 Hundred Dollars (\$200.00) to be deposited into
2 the Trauma Care Assistance Revolving Fund created
3 in Section 1-2530.9 of Title 63 of the Oklahoma
4 Statutes, for each suspension or revocation as
5 shown by the records of the Department, and

6 (2) in addition to any other fees required by this
7 section, if such privilege is suspended or
8 revoked pursuant to an arrest on or after
9 November 1, 2008, under the provisions of
10 paragraph 2 or 6 of subsection A of Section 6-205
11 of this title or of Section ~~753, 754, or~~ 761 of
12 this title or because of a test result or test
13 refusal, a fee of Fifteen Dollars (\$15.00), which
14 shall be apportioned pursuant to the provisions
15 of Section 3-460 of Title 43A of the Oklahoma
16 Statutes; and

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

19 a. ~~beginning on August 26, 2011, through June 30, 2013,~~
20 ~~Fifty Dollars (\$50.00), of which Twenty-five Dollars~~
21 ~~(\$25.00) shall be deposited by the Commissioner to the~~
22 ~~credit of the Department of Public Safety Revolving~~
23 ~~Fund and, in addition to other purposes authorized by~~
24 ~~law, the expenditures from that fund of monies derived~~

1 ~~from the Twenty-five Dollars (\$25.00) pursuant to this~~
2 ~~subparagraph shall be used to fund any Oklahoma~~
3 ~~Highway Patrol Trooper Academy provided by the~~
4 ~~Department. Any remaining funds shall be used for~~
5 ~~operational expenses of the Oklahoma Highway Patrol,~~
6 ~~and~~

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

9 D. The Department of Public Safety is hereby authorized to
10 enter into agreements with persons whose license to operate a motor
11 vehicle or commercial motor vehicle has been suspended or revoked,
12 ~~except as to those suspensions, revocations, cancellations or~~
13 ~~denials made pursuant to paragraph 1 or 2 of subsection A of Section~~
14 ~~6-205 of this title or to Section 753 or 754 of this title, for~~
15 issuance of a provisional licenses license that ~~would allow~~ allows
16 such persons to drive:

- 17 1. Between their place of residence and their place of
18 employment or potential employment;
- 19 2. During the scope and course of their employment;
- 20 3. Between their place of residence and a college, university
21 or technology center;
- 22 4. Between their place of residence and their child's school or
23 day care provider;
- 24 5. Between their place of residence and a place of worship; or

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

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

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

22 F. The Department may enter into an IDAP program agreement with
23 the person if:
24

1 1. The Department receives the request for IDAP participation
2 pursuant to this section within ten (10) calendar days from the date
3 reflected on the dated receipt issued by an officer to the person
4 pursuant to subsection B of Section 754 of this title, on the form
5 provided by the Department;

6 2. The Department receives payment of the Two Hundred Dollars
7 (\$200.00) program administration fee within forty-five (45) days of
8 the date notice was given pursuant to Section 2-116 of this title;

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

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

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

23 H. The program length shall be:
24

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

9 2. A minimum of twelve (12) months for a person subject to
10 revocation pursuant to paragraph 2 of subsection A of Section 6-
11 205.1 of this title. If the Department receives notice of any
12 verified ignition interlock violations, as determined by the Board
13 of Tests for Alcohol and Drug Influence, within the last six (6)
14 months of the program period, the program period shall be extended
15 until such time the person completes a violation free six-month
16 period;

17 3. A minimum of twenty-four (24) months for a person subject to
18 revocation pursuant to paragraph 3 of subsection A of Section 6-
19 205.1 of this title. If the Department receives notice of any
20 verified ignition interlock violations, as determined by the Board
21 of Tests for Alcohol and Drug Influence, within the last twelve (12)
22 months of the program period, the program period shall be extended
23 until such time the person completes a violation free twelve-month
24 period.

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

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

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

8 2. Except as otherwise provided in this section, all other
9 monies collected in excess of Two Hundred Fifty Thousand Dollars
10 (\$250,000.00) each month shall be deposited in the General Revenue
11 Fund.

12 SECTION 8. AMENDATORY 47 O.S. 2011, Section 6-212.3, as
13 last amended by Section 2, Chapter 393, O.S.L. 2013 (47 O.S. Supp.
14 2016, Section 6-212.3), is amended to read as follows:

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

23 1. ~~For a first revocation and if the person refused to submit~~
24 ~~to a test or tests, or had a blood or breath alcohol concentration~~

1 ~~of fifteen hundredths (0.15) or more, for a period of one and one~~
2 ~~half (1 1/2) years following the mandatory period of revocation or~~
3 ~~until the driving privileges of the person are reinstated, whichever~~
4 ~~is longer;~~

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

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

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

22 ~~C. The Whenever the installation of an ignition interlock~~
23 ~~device is allowed or required by law, the Department shall require,~~
24 ~~as a condition of reinstatement, the device to be installed upon any~~

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

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

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

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

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

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

24

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

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

1 ~~and expended solely for the purpose of administering the provisions~~
2 ~~of this section.~~

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

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

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

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

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

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

24

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 the IDAP
4 program administration fee, as provided in Section 6-212 of this
5 title, by the person. The restricted driver license and the driving
6 record of the person shall indicate by an appropriate restriction
7 that the person is only authorized to operate a vehicle upon which
8 an approved ignition interlock device is installed. If the person
9 is operating a motor vehicle owned or leased by an employer who has
10 not given permission for an ignition interlock device to be
11 installed, the employer shall provide the person with a letter, on
12 official letterhead of the employer, which the person shall carry in
13 his or her immediate possession at all times when operating a motor
14 vehicle and shall display for examination and inspection upon demand
15 of a peace officer.

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

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

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

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

21 C. No person granted permission to drive a motor vehicle on the
22 condition of installation of an ignition interlock device shall
23 drive any vehicle that is not equipped with an ignition interlock
24 device unless driving a vehicle of an employer in accordance with

1 Section 754.1 or subsection A of Section 6-212.3 of this title. A
2 violation of this ~~section~~ subsection shall be a misdemeanor and
3 shall be punishable by a fine of not more than Five Hundred Dollars
4 (\$500.00) or by imprisonment in the county jail for not more than
5 six (6) months, or by both such fine and imprisonment.

6 D. The court shall require, as a condition of any bond, the
7 installation of an ignition interlock device, approved by the Board
8 of Tests for Alcohol and Drug Influence, on any vehicle operated by
9 the defendant charged with a second or subsequent offense under
10 Section 11-902 of this title. The period of time for which the
11 ignition interlock device is required to be installed pursuant to
12 this section shall not be credited toward any time period for which
13 an ignition interlock device is required to be installed pursuant to
14 Section 6-205.1 of this title. The period of time for which the
15 ignition interlock device is required to be installed pursuant to
16 this section shall be credited toward any time period for which
17 ignition interlock device installation is required under the
18 Impaired Driver Accountability Program. If the person charged
19 successfully completes the Impaired Driver Accountability Program
20 before a plea or verdict in their criminal case, the court may
21 remove the ignition interlock device requirement from the bond.

22 SECTION 10. AMENDATORY 47 O.S. 2011, Section 751, is
23 amended to read as follows:
24

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

23 2. A law enforcement officer, having reasonable grounds to
24 believe that such person was operating or in actual physical control

1 of a motor vehicle while under the influence may direct the
2 administration of or administer the test or tests.

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

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

17 ~~In the event the law enforcement agency does not designate the~~
18 ~~test to be administered, breath Breath shall be the substance tested~~
19 ~~for alcohol concentration unless a law enforcement officer requests~~
20 ~~a blood test in accordance with the provisions of this section.~~

21 ~~Blood may also be tested to determine the alcohol concentration or~~
22 ~~the presence or concentration of other intoxicating substances or a~~
23 ~~combination thereof in the event ~~that breath:~~~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Section 752. A. Only a licensed medical doctor, licensed
23 osteopathic physician, licensed chiropractic physician, registered
24 nurse, licensed practical nurse, physician's assistant, certified by

1 the State Board of Medical Licensure and Supervision, an employee of
2 a hospital or other health care facility authorized by the hospital
3 or health care facility to withdraw blood, or ~~other qualified person~~
4 ~~authorized by the Board of Tests for Alcohol and Drug Influence~~
5 personnel licensed in accordance with Section 1-2505 of Title 63 of
6 the Oklahoma Statutes as Intermediate Emergency Medical Technicians.
7 Advanced Emergency Medical Technicians or Paramedics acting at the
8 request of a law enforcement officer may withdraw blood for the
9 purpose of ~~having a determination made of its~~ determining the
10 presence and concentration of alcohol or the presence or
11 ~~concentration of~~ other intoxicating substance, or a combination
12 thereof. Only ~~qualified~~ persons authorized by the Board may collect
13 ~~breath,~~ saliva or urine, or administer tests of breath under the
14 provisions of this title.

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

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

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

22 3. Signed by a duly authorized peace officer that the person
23 whose blood is to be withdrawn has been placed under arrest and that
24 the officer has probable cause to believe that the person, while

1 intoxicated, has operated a motor vehicle in such manner as to have
2 caused the death or serious physical injury of another person, or
3 the person has been involved in a traffic accident and has been
4 removed from the scene of the accident that resulted in the death or
5 great bodily injury, as defined in subsection B of Section 646 of
6 Title 21 of the Oklahoma Statutes, of any person to a hospital or
7 other health care facility outside the State of Oklahoma before the
8 law enforcement officer was able to effect an arrest for such
9 offense; or

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

20 C. No person specified in subsection A of this section, no
21 employer of such person, and no hospital or other health care
22 facility where blood is withdrawn shall incur any civil or criminal
23 liability as a result of the proper withdrawal of blood when acting
24 at the request of a law enforcement officer by the provisions of

1 Section 751 or 753 of this title, or when acting in reliance upon a
2 signed statement or court order as provided in this section, if the
3 act is performed in a reasonable manner according to generally
4 accepted clinical practice. No person specified in subsection A of
5 this section shall incur any civil or criminal liability as a result
6 of the proper collection of breath, saliva or urine when acting at
7 the request of a law enforcement officer under the provisions of
8 Section 751 or 753 of this title or when acting pursuant to a court
9 order.

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

17 E. When blood is ~~withdrawn or saliva or urine is~~ collected for
18 testing of its alcohol concentration or other intoxicating substance
19 presence or concentration, at the request of a law enforcement
20 officer, a sufficient quantity of the same specimen shall be
21 obtained to enable the tested person, at his or her own option and
22 expense, to have an independent analysis made of such specimen. The
23 excess blood, ~~saliva or urine~~ specimen shall be retained by a
24 laboratory approved by the Board, in accordance with the rules and

1 regulations of the Board, or by a laboratory that is exempt from the
2 Board rules pursuant to Section 759 of this title, for sixty (60)
3 days from the date of collection. At any time within that period,
4 the tested person or his or her attorney may direct that such blood,
5 saliva or urine specimen be sent or delivered to a laboratory of his
6 or her own choosing and approved by the Board for an independent
7 analysis. Neither the tested person, nor any agent of such person,
8 shall have access to the additional blood,~~saliva or urine~~ specimen
9 prior to the completion of the independent analysis, except the
10 analyst performing the independent analysis and agents of the
11 analyst.

12 F. ~~When a test of breath is performed for the purpose of~~
13 ~~determining the alcohol concentration thereof, except when such test~~
14 ~~is performed by means of an automated analyzer as designated by the~~
15 ~~Board, a sufficient quantity of breath, or of the alcohol content of~~
16 ~~a fixed or measured quantity of breath, shall be obtained, in~~
17 ~~accordance with the rules and regulations of the Board, to enable~~
18 ~~the tested person, at his or her own option and expense, to have an~~
19 ~~independent analysis made of such specimen. The excess specimen of~~
20 ~~breath, or of its alcohol content, shall be retained by the law~~
21 ~~enforcement agency employing the arresting officer, in accordance~~
22 ~~with the rules and regulations of the Board, for sixty (60) days~~
23 ~~from the date of collection. At any time within that period, the~~
24 ~~tested person, or his or her attorney, may direct that such specimen~~

1 ~~be sent or delivered to a laboratory of his or her own choosing and~~
2 ~~approved by the Board for an independent analysis. Neither the~~
3 ~~tested person, nor any agent of such person, shall have access to~~
4 ~~the additional specimen of breath, or of its alcohol content, prior~~
5 ~~to the completion of the independent analysis thereof, except the~~
6 ~~analyst performing the independent analysis and agents of the~~
7 ~~analyst.~~

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

1 the tested person at whose option such analysis is performed. The
2 tested person, or his or her agent, shall make all necessary
3 arrangements for the performance of such independent analysis other
4 than the forwarding or delivery of such specimen.

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

17 ~~F.~~ H. Any person who has been arrested for any offense arising
18 out of acts alleged to have been committed while the person was
19 operating or in actual physical control of a motor vehicle while
20 under the influence of alcohol, any other intoxicating substance or
21 the combined influence of alcohol and any other intoxicating
22 substance who is not requested by a law enforcement officer to
23 submit to a test shall be entitled to have an independent test of
24 his or her blood, ~~breath, saliva or urine which is appropriate as~~

1 ~~determined by the Board~~ for the purpose of determining its alcohol
2 concentration or the presence or concentration of any other
3 intoxicating substance therein, performed by a person of his or her
4 own choosing who is qualified as stipulated in this section. The
5 arrested person shall bear the responsibility for making all
6 necessary arrangements for the administration of such independent
7 test and for the independent analysis of any specimens obtained, and
8 bear all costs thereof. The failure or inability of the arrested
9 person to obtain an independent test shall not preclude the
10 admission of other competent evidence bearing upon the question of
11 whether such person was under the influence of alcohol, or any other
12 intoxicating substance or the combined influence of alcohol and any
13 other intoxicating substance.

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

- 20 1. The tested person, or his or her attorney;
- 21 2. The Commissioner of Public Safety; and
- 22 3. The Fatality Analysis Reporting System (FARS) analyst of the
23 state, upon request.

24

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

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

6 Section 753. A. If a conscious person under arrest refuses to
7 submit to testing of his or her blood or breath for the purpose of
8 determining the alcohol concentration thereof, or to a test of his
9 or her blood, saliva or urine for the purpose of determining the
10 presence or concentration of any other intoxicating substance, or
11 the combined influence of alcohol and any other intoxicating
12 substance, none shall be given except upon the issuance of a search
13 warrant or unless the investigating officer has probable cause to
14 believe that the person under arrest, while intoxicated, has
15 operated the motor vehicle in such a manner as to have caused the
16 death or serious physical injury of any other person or persons. In
17 such event, such test otherwise authorized by law may be made in the
18 same manner as if a search warrant had been issued for such test or
19 tests. The sample shall be taken in a medically acceptable manner
20 as authorized by Section 752 of this title. ~~The Commissioner of
21 Public Safety, upon the receipt of a sworn report of the law
22 enforcement officer that the officer had reasonable grounds to
23 believe the arrested person had been driving or was in actual
24 physical control of a motor vehicle upon the public roads, highways,~~

1 ~~streets, turnpikes or other public place of this state while under~~
2 ~~the influence of alcohol, any other intoxicating substance, or the~~
3 ~~combined influence of alcohol and any other intoxicating substance~~
4 ~~and that the person had refused to submit to the test or tests,~~
5 ~~shall revoke the license to drive and any nonresident operating~~
6 ~~privilege for a period as provided by Section 6-205.1 of this title.~~
7 ~~If the person is a resident or a nonresident without a license or~~
8 ~~permit to operate a motor vehicle in this state, the Commissioner of~~
9 ~~Public Safety shall deny to the person the issuance of a license or~~
10 ~~permit for a period as provided by Section 6-205.1 of this title~~
11 ~~subject to a review as provided in Section 754 of this title. The~~
12 ~~revocation or denial shall become effective thirty (30) days after~~
13 ~~the arrested person is given written notice thereof by the officer~~
14 ~~or by the Department as provided in Section 754 of this title.~~

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

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

20 2. ~~The Department receives a written blood or breath test~~
21 ~~report that reflects the arrested person did not have any measurable~~
22 ~~quantity of alcohol, any other intoxicating substance, or the~~
23 ~~combination of alcohol and any other intoxicating substance in the~~
24 ~~arrested person's blood or breath~~ It shall be a misdemeanor,

1 punishable by a fine of not more than One Thousand Dollars
2 (\$1,000.00) and not more than ten (10) days in jail, or by both fine
3 and imprisonment, for a conscious person under arrest for driving
4 while impaired, driving under the influence or while under the
5 influence being in actual physical control of a motor vehicle upon
6 the public roads, highways, streets, turnpikes or other public place
7 or upon any private road, street, alley or lane which provides
8 access to one or more single or multi-family dwellings within this
9 state to refuse to submit to a test of the breath of the person for
10 the purpose of determining the alcohol concentration thereof.

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

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

1 search. The evidence of driving privilege seized by the officer
2 shall be delivered to the Department of Public Safety. The
3 Department shall destroy the evidence of driving privilege upon
4 receipt thereof.

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

22 C. ~~Upon receipt of a written blood or breath test report~~
23 ~~reflecting that the arrested person, if under twenty one (21) years~~
24 ~~of age, had any measurable quantity of alcohol in the person's blood~~

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

14 ~~D. Upon the written request of a person whose driving privilege~~
15 ~~has been revoked or denied by notice given in accordance with this~~
16 ~~section or Section 2-116 of this title, the Department shall grant~~
17 ~~the person an opportunity to be heard if the request is received by~~
18 ~~the Department within fifteen (15) days after the notice. The sworn~~
19 ~~report of the officer, together with the results of any test or~~
20 ~~tests, shall be deemed true, absent any facial deficiency, should~~
21 ~~the requesting person fail to appear at the scheduled hearing. A~~
22 ~~timely request shall stay the order of the Department until the~~
23 ~~disposition of the hearing unless the person is under cancellation,~~
24 ~~denial, suspension or revocation for some other reason. The~~

1 ~~Department may issue a temporary driving permit pending disposition~~
2 ~~of the hearing, if the person is otherwise eligible. If the hearing~~
3 ~~request is not timely filed, the revocation or denial shall be~~
4 ~~sustained.~~

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

19 ~~2. When any alleged controlled dangerous substance has been~~
20 ~~submitted to the laboratory of the OSBI for analysis, and the~~
21 ~~analysis shows that the submitted material is a controlled dangerous~~
22 ~~substance, the distribution of which constitutes a felony under the~~
23 ~~laws of this state, no portion of the substance shall be released to~~
24 ~~any other person or laboratory absent an order of a district court.~~

1 The defendant shall additionally be required to submit to the court
2 a procedure for transfer and analysis of the subject material to
3 ensure the integrity of the sample and to prevent the material from
4 being used in any illegal manner.

5 ~~3. The court, upon motion of either party, shall order the~~
6 ~~attendance of any person preparing a report submitted as evidence in~~
7 ~~the hearing when it appears there is a substantial likelihood that~~
8 ~~material evidence not contained in the report may be produced by the~~
9 ~~testimony of any person having prepared a report. The hearing shall~~
10 ~~be held and, if sustained, an order issued not less than five (5)~~
11 ~~days prior to the time when the testimony shall be required.~~

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

19 ~~F. The hearing before the Commissioner of Public Safety or a~~
20 ~~designated hearing officer shall be conducted in the county of~~
21 ~~arrest or may be conducted by telephone conference call. The~~
22 ~~hearing may be recorded and its scope shall cover the issues of~~
23 ~~whether the officer had reasonable grounds to believe the person had~~
24 ~~been operating or was in actual physical control of a vehicle upon~~

1 ~~the public roads, highways, streets, turnpikes or other public place~~
2 ~~of this state while under the influence of alcohol, any other~~
3 ~~intoxicating substance, or the combined influence of alcohol and any~~
4 ~~other intoxicating substance as prohibited by law, and whether the~~
5 ~~person was placed under arrest.~~

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

- 9 ~~a. if timely requested by the person, the person was not~~
10 ~~denied a breath or blood test,~~
- 11 ~~b. the specimen was obtained from the person within two~~
12 ~~(2) hours of the arrest of the person,~~
- 13 ~~c. the person, if under twenty one (21) years of age, was~~
14 ~~advised that driving privileges would be revoked or~~
15 ~~denied if the test result reflected the presence of~~
16 ~~any measurable quantity of alcohol,~~
- 17 ~~d. the person, if twenty one (21) years of age or older,~~
18 ~~was advised that driving privileges would be revoked~~
19 ~~or denied if the test result reflected an alcohol~~
20 ~~concentration of eight-hundredths (0.08) or more, and~~
- 21 ~~e. the test result in fact reflects the alcohol~~
22 ~~concentration.~~

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

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

10 SECTION 14. AMENDATORY 47 O.S. 2011, Section 754.1, as
11 last amended by Section 4, Chapter 393, O.S.L. 2013 (47 O.S. Supp.
12 2016, Section 754.1), is amended to read as follows:

13 Section 754.1. A. ~~The Department of Public Safety, prior to an~~
14 ~~administrative hearing for Modification of a revocation or denial~~
15 ~~arising under the provisions of Sections 751 through 754 or Section~~
16 ~~761 of this title or under the provisions of Section 6-205.1 of this~~
17 ~~title, may modify the revocation or denial when it is determined by~~
18 ~~the Department that no other adequate means of transportation exists~~
19 ~~for the person whose driving privilege has been revoked or denied;~~
20 ~~provided, any modification under this paragraph shall apply to Class~~
21 ~~D motor vehicles only.~~

22 B. As a prerequisite and condition of any modification, the
23 person shall be required to have installed an ignition interlock
24 device approved by the Board of Tests for Alcohol and Drug

1 Influence, at the person's own expense, upon ~~every~~ any motor vehicle
2 operated by the person. A person whose revocation is modified may
3 only operate a motor vehicle equipped with an approved ignition
4 interlock device. The Department shall require, as a condition of
5 modification, the device to be installed upon any vehicle owned or
6 leased, as reflected on the vehicle registration, by an employer of
7 the person for use by the person, except when the employer requests
8 the ignition interlock device not be installed. The request shall
9 be in writing and notarized on the official letterhead of the
10 employer and provided by the ~~person~~ employer to the Department;
11 provided, a request shall not be accepted by the Department under
12 the following circumstances:

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

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

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

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

24

1 C. Upon the issuance of a modification order pursuant to this
2 section ~~or Section 755 of this title~~, or under the provisions of
3 paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of
4 subsection B of Section 6-205.1 of this title, for a violation of
5 this title, the person shall pay a modification fee of One Hundred
6 Seventy-five Dollars (\$175.00) to the Department. For each
7 modification fee collected pursuant to the provisions of this
8 subsection, One Hundred Dollars (\$100.00) shall be remitted to the
9 State Treasurer to be credited to the General Revenue Fund in the
10 State Treasury and Seventy-five Dollars (\$75.00) shall be remitted
11 to the State Treasurer to be credited to the Department of Public
12 Safety Restricted Revolving Fund. All monies accruing to the credit
13 of the Department of Public Safety Restricted Revolving Fund from
14 modification fees shall be budgeted and expended solely for the
15 purpose of administering the provisions of this section ~~and Section~~
16 ~~755 of this title~~.

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

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

23 Section 756. A. Upon the trial of any criminal action or
24 proceeding arising out of acts alleged to have been committed by any

1 person while driving or in actual physical control of a motor
2 vehicle while under the influence of alcohol or any other
3 intoxicating substance, or the combined influence of alcohol and any
4 other intoxicating substance, evidence of the alcohol concentration
5 in the blood or breath of the person as shown by analysis of the
6 blood or breath of the person performed in accordance with the
7 provisions of Sections 752 and 759 of this title or evidence of the
8 presence or concentration of any other intoxicating substance as
9 shown by analysis of such person's blood, breath, saliva, or urine
10 specimens in accordance with the provisions of Sections 752 and 759
11 of this title is admissible. Evidence that the person has refused
12 to submit to ~~either of said analyses~~ a test or tests is also
13 admissible. For the purpose of this title, when the person is under
14 the age of twenty-one (21) years, evidence that there was, at the
15 time of the test, any measurable quantity of alcohol is prima facie
16 evidence that the person is under the influence of alcohol in
17 violation of Section 11-906.4 of this title. For persons twenty-one
18 years of age or older:

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

22 2. Evidence that there was, at the time of the test, an alcohol
23 concentration in excess of five-hundredths (0.05) but less than
24 eight-hundredths (0.08) is relevant evidence that the person's

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

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

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

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

24

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

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

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

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

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

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

22 F. 1. At any hearing, documents retained by the Board of Tests
23 of Alcohol and Drug Influence to reflect maintenance on an
24 instrument maintained by the Board for the measurement of alcohol

1 concentration in a person's breath, which have been made available
2 to the accused by the office of the district attorney at least ten
3 (10) days prior to the hearing, when certified as correct by the
4 persons making the report shall be received as evidence of the facts
5 and findings stated, if relevant and otherwise admissible in
6 evidence. If a report is deemed relevant by the state or the
7 accused, the court shall admit the report without the testimony of
8 the person making the report, unless the court, pursuant to
9 paragraph 2 of this subsection, orders the person making the report
10 to appear.

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

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

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

21
22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND
23 CORRECTIONS, dated 04/10/2017 - DO PASS, As Amended.

24