

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

3RD CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1920

By: Hilliard, Adair and Eddins
of the House

and

Wilkerson of the Senate

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 1991, Section 11-801, as last amended by Section 1, Chapter 328, O.S.L. 1999 (47 O.S. Supp. 1999, Section 11-801), which relates to maximum speed limits; establishing specific fines and periods of imprisonment for speeding; requiring certain monies be remitted to State Treasurer for deposit in certain fund; amending 47 O.S. 1991, Sections 11-901 and 11-902, as last amended by Section 11 of Enrolled House Bill 2711 of the 2nd Session of the 47th Oklahoma Legislature, which relate to reckless driving and driving under the influence; establishing and modifying minimum fine amounts; requiring certain monies be remitted to State Treasurer for deposit in certain fund; amending 47 O.S. 1991, Section 17-101, which relates to penalties for misdemeanor traffic offenses; modifying minimum and maximum amounts of fine; requiring certain monies be remitted to State Treasurer for deposit in certain fund; repealing 47 O.S. 1991, Section 11-801, as last amended by Section 1, Chapter 299, O.S.L. 1999 (47 O.S. Supp. 1999, Section 11-801), which relates to maximum speed limits; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 11-801, as last amended by Section 1, Chapter 328, O.S.L. 1999 (47 O.S. Supp. 1999, Section 11-801), is amended to read as follows:

Section 11-801. A. Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than

nor less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and any other conditions then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit the driver to bring it to a stop within the assured clear distance ahead.

B. Except when a special hazard exists that requires lower speed for compliance with subsection A of this section, the limits specified in this act or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

1. Seventy-five (75) miles per hour in locations comprising:

- a. the turnpike system, and
- b. rural segments of the interstate highway system, as may be designated by the Transportation Commission. Provided, however, the Commission shall determine prior to the designation of such segments that the public safety will not be jeopardized;

2. Seventy (70) miles per hour in locations which are:

- a. four-lane divided highways including, but not limited to, the interstate highway system, and
- b. super two-lane highways. As used in this section, a super two-lane highway shall mean any two-lane highway with designated passing lanes, and consisting of paved shoulders not less than eight (8) feet in width;

3. Sixty-five (65) miles per hour in other locations;

4. No person shall drive a school bus at a speed greater than a maximum of fifty-five (55) miles per hour on paved two-lane highways except on turnpikes and interstate highways where the maximum shall be sixty-five (65) miles per hour;

5. On any highway outside of a municipality, the speed limit in a properly marked school zone shall be a maximum of twenty-five (25) miles per hour, provided the zone is marked with appropriate warning

signs placed in accordance with the latest edition of the Manual on Uniform Traffic Control Devices. The Oklahoma Department of Transportation may determine on the basis of an engineering and traffic investigation that a speed limit higher than twenty-five (25) miles per hour may be reasonable and safe under conditions as they exist upon a highway, and post an alternative school zone speed limit. The Department of Transportation shall mark such school zones, or entrances and exits onto highways by buses or students, so that the maximum speed provided by this section shall be established therein. Exits and entrances to controlled-access highways which are within such school zones shall be marked in the same manner as other highways. The county commissioners shall mark such school zones along the county roads so that the maximum speed provided by this section shall be established therein. Said signs may be either permanent or temporary. The Department of Transportation shall give priority over all other signing projects to the foregoing duty to mark school zones. The Department shall also provide other safety devices for school zones which are needed in the opinion of the Department;

6. No person shall drive any vehicle at a greater maximum speed than twenty-five (25) miles per hour or a posted alternative school zone speed limit through state schools located on the state-owned land adjoining or outside the limits of a corporate city or town where a state educational institution is established;

7. No person shall drive any vehicle on a highway in any state park or wildlife refuge at a rate of speed in excess of thirty-five (35) miles per hour. Provided, however, that the provisions of this section shall not include the State Capitol park area, and no person shall drive any vehicle at a rate of speed in excess of forty-five (45) miles per hour on any state or federal designated highway within such areas; and

8. No person shall drive any vehicle or combination of vehicles with solid rubber or metal tires at a speed greater than the maximum of ten (10) miles per hour.

The maximum speed limits set forth in this act may be altered as authorized in Sections 11-802 and 11-803 of this title.

C. The Transportation Commission is hereby authorized to prescribe maximum and minimum speeds for all vehicles and any combinations of vehicles using controlled-access highways. Such regulations shall become effective after signs have been posted on these highways giving notice thereof. Such regulations may apply to an entirely controlled-access highway or to selected sections thereof as may be designated by the Transportation Commission. It shall be a violation of this section to drive any vehicle at a faster rate of speed than such prescribed maximum or at a slower rate of speed than such prescribed minimum. However, all vehicles shall at all times conform to subsection A of this section.

Copies of such regulations certified as in effect on any particular date by the Secretary of the Transportation Commission shall be accepted as evidence in any court in this state. Whenever changes have been made in speed zones, copies of such regulations shall be filed with the State Commissioner of Public Safety.

D. The driver of every vehicle shall, consistent with the requirements of subsection A of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when driving upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.

E. 1. No person shall drive a vehicle on a county road at a speed in excess of fifty-five (55) miles per hour unless posted

otherwise by the board of county commissioners, as provided in subparagraphs a through c of this paragraph, as follows:

- a. the board of county commissioners may determine, by resolution, a maximum speed limit which shall apply to all county roads which are not otherwise posted for speed,
- b. the board of county commissioners shall provide public notice of the speed limit on all nonposted roads by publication in a newspaper of general circulation in the county. The notice shall be published once weekly for a period of four (4) continuous weeks, and
- c. the board of county commissioners shall forward the resolution to the Director of the Department of Transportation and to the Commissioner of Public Safety.

2. The Department of Transportation shall post speed limit information, as determined pursuant to the provisions of subparagraphs a through c of paragraph 1 of this subsection, on the county line marker where any state highway enters a county and at all off-ramps where interstate highways or turnpikes enter a county. The signs shall read as follows:

ENTERING _____ COUNTY
 COUNTY ROAD SPEED LIMIT
 _____ MPH
 UNLESS POSTED OTHERWISE

The appropriate board of county commissioners shall reimburse the Department of Transportation the full cost of the signage required herein.

F. Any person convicted of a speeding violation pursuant to subsection B or E of this section shall be punished by a fine as follows:

- 1. One to ten miles per hour over the limit.....\$26.00

Sixteen Dollars (\$16.00) of the fine shall be remitted
by the court to the State Treasurer to be deposited in
the Department of Public Safety Patrol Vehicle
Revolving Fund;

2. Eleven to fifteen miles per hour over the limit\$35.00

Fifteen Dollars (\$15.00) of the fine shall be remitted
by the court to the State Treasurer to be deposited in
the Department of Public Safety Patrol Vehicle
Revolving Fund;

3. Sixteen to twenty miles per hour over the limit\$50.00

Twenty Dollars (\$20.00) of the fine shall be remitted
by the court to the State Treasurer to be deposited in
the Department of Public Safety Patrol Vehicle
Revolving Fund;

4. Twenty-one to twenty-five miles per hour over the limit
.....\$90.00

Forty Dollars (\$40.00) of the fine shall be remitted
by the court to the State Treasurer to be deposited in
the Department of Public Safety Patrol Vehicle
Revolving Fund;

5. Twenty-six to thirty miles per hour over the limit ..\$150.00

Seventy Dollars (\$70.00) of the fine shall be remitted
by the court to the State Treasurer to be deposited in
the Department of Public Safety Patrol Vehicle
Revolving Fund;

6. Thirty-one to thirty-five miles per hour over the limit
.....\$170.00

Ninety Dollars (\$90.00) of the fine shall be remitted
by the court to the State Treasurer to be deposited in
the Department of Public Safety Patrol Vehicle
Revolving Fund; and

7. Thirty-six miles per hour or more over the limit\$220.00

One Hundred Forty Dollars (\$140.00) of the fine shall be remitted by the court to the State Treasurer to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund,

or by imprisonment for not more than ten (10) days; for a second conviction within one (1) year after the first conviction, by imprisonment for not more than twenty (20) days; and upon a third or subsequent conviction within one (1) year after the first conviction, by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 11-901, is amended to read as follows:

Section 11-901. ~~(a)~~ A. It shall be deemed reckless driving for any person to drive a motor vehicle in a careless or wanton manner without regard for the safety of persons or property or in violation of the conditions outlined in Section 11-801 of this title.

~~(b)~~ B. Every person convicted of reckless driving shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by a fine of not less than ~~Twenty-five Dollars (\$25.00)~~ Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment; on a second or subsequent conviction, punishment shall be imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than ~~Fifty Dollars (\$50.00)~~ Three Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. One Hundred Fifty Dollars (\$150.00) of any fine imposed under this subsection shall be remitted by the court to the State Treasurer to be deposited in the Department of Public Safety Vehicle Revolving Fund.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 11-902, as last amended by Section 11 of Enrolled House Bill 2711 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 11-902. A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of ten-hundredths (0.10) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;

2. Is under the influence of alcohol;

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

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

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

C. 1. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than One Thousand Dollars (\$1,000.00).

2. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of any law of another state prohibiting the offense

provided in subsection A of this section, is convicted of a second offense pursuant to the provisions of this section or has a prior conviction in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted pursuant to the provision of this section shall be deemed guilty of a felony and shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00).

3. Any person who is convicted of a second felony offense pursuant to the provisions of this section shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed seven (7) years and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than Five Thousand Dollars (\$5,000.00).

4. Any person who is convicted of a third or subsequent felony offense pursuant to the provisions of this section shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed ten (10) years and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than Five Thousand Dollars (\$5,000.00).

5. Any person who, within ten (10) years after a previous conviction of a violation of murder in the second degree or manslaughter in the first degree in which the death was caused as a result of driving under the influence of alcohol or other intoxicating substance, is convicted of a violation of this section shall be deemed guilty of a felony.

6. Provided, however, a conviction from another state shall not be used to enhance punishment pursuant to the provisions of this

subsection if that conviction is based on a blood or breath alcohol concentration of less than ten-hundredths (0.10).

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

8. One Hundred Fifty Dollars (\$150.00) of any fine imposed under this subsection shall be remitted by the court to the State Treasurer to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.

D. When a person is sentenced to the custody of the Department of Corrections, the person shall be processed through the Lexington Assessment and Reception Center or at a place determined by the Director of the Department of Corrections. The Department of Corrections shall classify and assign the person to one or more of the following:

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

2. A correctional facility operated by the Department of Corrections.

E. In the event a felony conviction does not result in the person being sentenced to the custody of the Department of Corrections, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the Oklahoma Statutes.

F. The Department of Mental Health and Substance Abuse Services and the Department of Corrections may certify to the Department of Public Safety that a person has successfully completed a treatment program and is successfully complying with any follow-up treatment required by the Department of Corrections. In such case, the person shall be given credit therefor as fulfillment of all provisions of Section 3-453 of Title 43A of the Oklahoma Statutes and shall be permitted to apply for reinstatement of any suspension, revocation, cancellation or denial order withdrawing a privilege to drive.

G. The Department of Public Safety is hereby authorized to reinstate any suspended or revoked license when the applicant meets the statutory requirements which affect the existing driving privilege.

H. Except as provided in subsection J of this section, any person who is found guilty of a violation of the provisions of this section shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. If such report indicates that the evaluation shows that the defendant would benefit from a

treatment program, the court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in an alcohol and drug substance abuse treatment program at an approved treatment facility as defined by Section 3-403 of Title 43A of the Oklahoma Statutes. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this section for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to the provisions of this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to the provisions of this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. Nothing contained in

this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction authorized by law for failure or refusal to comply with an order of the court.

I. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

J. Any person who is found guilty of a felony violation of the provisions of this section, who receives a suspended sentence and who does not already have an ignition interlock device installed pursuant to Section 754.1 of this title, shall as a condition of that suspended sentence be required to have installed an ignition interlock device approved by the Department of Public Safety at the person's own expense for a period of not less than six (6) months nor more than three (3) years. The ignition interlock device shall be placed on the motor vehicle owned by the defendant or on the vehicle most regularly operated by the defendant. The person shall pay the monthly maintenance fee for the ignition interlock device as a condition of the suspended sentence. The installation of an ignition interlock device, as required by this subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

K. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of law of another state prohibiting the offense provided in subsection A of this section or a violation of a municipal ordinance prohibiting the offense provided in subsection A

of this section, pleads guilty or nolo contendere or is convicted of a violation of this section shall not be required to undergo the alcohol and drug substance evaluation program required by subsection H of this section. The court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in an alcohol and drug substance abuse treatment program pursuant to Section 3-452 of Title 43A of the Oklahoma Statutes.

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

SECTION 4. AMENDATORY 47 O.S. 1991, Section 17-101, is amended to read as follows:

Section 17-101. ~~(a)~~ A. It is a misdemeanor for any person to violate any of the provisions of this title unless such violation is by this title or other law of this state declared to be a felony.

~~(b)~~ B. 1. Every person convicted of a misdemeanor for a violation of any of the provisions of Sections 10-101 through 14-121 or Sections 16-101 through 16-114 of this title for which another penalty is not provided shall ~~for a first~~ upon conviction thereof be punished by a fine of not less than ~~Ten Dollars (\$10.00)~~ Twenty Dollars (\$20.00) nor more than ~~One Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year ~~thereafter such person shall be punished by a fine of not less than Twenty Dollars (\$20.00) nor more than Two Hundred Dollars (\$200.00)~~ ~~or~~ after the first conviction by imprisonment for not more than twenty (20) days ~~or by both such fine and imprisonment~~; upon a third or subsequent conviction within one (1) year after the first conviction ~~such person shall be punished by a fine or not more than Five Hundred Dollars (\$500.00) or~~ by imprisonment for not more than

six (6) months, or by both such fine and imprisonment. Ten Dollars (\$10.00) of any fine imposed under this subsection shall be remitted by the court to the State Treasurer to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.

2. Any person violating the provisions of Sections 10-101 through 14-121 or Sections 16-101 through 16-114 of this title, where a jail sentence is not mandatory may, in the discretion of the district attorney wherein the offense occurred, be permitted to enter a plea of guilty by written statement by the person charged to be presented to the court wherein the case is filed. A remittance covering the fine and costs may be considered and received with the same force and effect as a written plea of guilty.

~~(e)~~ C. Unless another penalty is in this title or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any other provision of this title shall be punished by a fine of not less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Ten Dollars (\$10.00) of any fine imposed under this subsection shall be remitted by the court to the State Treasurer to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.

~~(d)~~ D. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of any of the provisions of this title which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.

SECTION 5. REPEALER 47 O.S. 1991, Section 11-801, as last amended by Section 1, Chapter 299, O.S.L. 1999 (47 O.S. Supp. 1999, Section 11-801), is hereby repealed.

SECTION 6. This act shall become effective July 1, 2000.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

47-2-9660 LAC 6/11/15