

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1165

By: Corn

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6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2001, Section 761, as amended by Section 4, Chapter
9 178, O.S.L. 2003 (47 O.S. Supp. 2007, Section 761),
10 which relates to operation of a motor vehicle while
impaired; broadening conditions under which a person
shall be subject to certain penalties; and providing
an effective date.

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

14 SECTION 1. AMENDATORY 47 O.S. 2001, Section 761, as
15 amended by Section 4, Chapter 178, O.S.L. 2003 (47 O.S. Supp. 2007,
16 Section 761), is amended to read as follows:

17 Section 761. A. Any person who operates or is in actual
18 physical control of a motor vehicle while ~~his~~ the person's ability
19 to operate such motor vehicle is impaired by the consumption of
20 alcohol, or any other substance, other than alcohol, which is
21 capable of being ingested, inhaled, injected or absorbed into the
22 human body and is capable of adversely affecting the central nervous
23 system, vision, hearing or other sensory or motor functions shall be
24 subject to a fine of not less than One Hundred Dollars (\$100.00) nor

1 more than Five Hundred Dollars (\$500.00), or imprisonment in the
2 county jail for not more than six (6) months, or by both such fine
3 and imprisonment.

4 B. Upon the receipt of any person's record of conviction of
5 driving while impaired, when such conviction has become final, the
6 Department of Public Safety shall suspend the driving privilege of
7 such person, as follows:

8 1. The first suspension shall be for thirty (30) days;

9 2. The second suspension shall be for a period of six (6)
10 months. Such suspension shall not be subject to modification; and

11 3. The third or subsequent suspension shall be for twelve (12)
12 months. Such suspension shall not be subject to modification.

13 Provided, however, the Department shall not suspend such
14 privilege pursuant to this subsection if said person's driving
15 privilege has been revoked based upon a test result or test refusal
16 pursuant to Section 753 or Section 754 of this title arising from
17 the same circumstances which resulted in the conviction.

18 C. The violations as set out in this section shall not be
19 bondable under Section 1115.3 of Title 22 of the Oklahoma Statutes.

20 D. Any person who is found guilty of a violation of the
21 provisions of this section or pleading guilty or nolo contendere for
22 a violation of any provision of this section shall be ordered to
23 participate in, prior to sentencing, an alcohol and drug assessment
24 and evaluation by an assessment agency or assessment personnel

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

1 however, this provision shall not be construed to prohibit the court
2 from ordering participation in or any person from voluntarily
3 utilizing a treatment program or alcohol and drug substance abuse
4 service offered by such person, agency or facility. Any evaluation
5 report submitted to the court pursuant to this subsection shall be
6 handled in a manner which will keep such report confidential from
7 the general public's review. Nothing contained in this subsection
8 shall be construed to prohibit the court from ordering judgment and
9 sentence and any other sanction authorized by law for failure or
10 refusal to comply with an order of the court.

11 SECTION 2. This act shall become effective November 1, 2008.

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