

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 529

By: Jolley

6 COMMITTEE SUBSTITUTE

7 An Act relating to driving under the influence;
8 creating the Erin Elizabeth Swezey Act; providing
9 short title; amending 47 O.S. 2001, Section 6-111, as
10 last amended by Section 2, Chapter 388, O.S.L. 2009
11 (47 O.S. Supp. 2010, Section 6-111), which relates to
12 issuance of license or identification card; requiring
13 procedure to label a driver license or identification
14 card with certain designation under certain
15 circumstances; amending Section 1, Chapter 167,
16 O.S.L. 2005, as amended by Section 18, Chapter 394,
17 O.S.L. 2005 (47 O.S. Supp. 2010, Section 6-212.3),
18 which relates to cancellation, suspension or
19 revocation of licenses; modifying certain time
20 periods for installation of ignition interlock
21 devices; amending 47 O.S. 2001, Section 11-902, as
22 last amended by Section 3, Chapter 310, O.S.L. 2009
23 (47 O.S. Supp. 2010, Section 11-902), which relates
24 to persons under the influence of alcohol or other
intoxicating substances; modifying certain penalties
for driving under the influence; amending 47 O.S.
2001, Section 11-906.4, which relates to the Drunk
Driving Prevention Act; modifying certain time period
for use of ignition interlock device; providing for
noncodification; and providing an effective date.

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

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

1 This act shall be known and may be cited as the "Erin Elizabeth
2 Swezey Act".

3 SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-111, as
4 last amended by Section 2, Chapter 388, O.S.L. 2009 (47 O.S. Supp.
5 2010, Section 6-111), is amended to read as follows:

6 Section 6-111. A. 1. The Department of Public Safety shall,
7 upon payment of the required fee, issue to every applicant
8 qualifying therefor a Class A, B, C or D driver license or
9 identification card as applied for, which license or card shall bear
10 thereon a distinguishing alphanumeric identification assigned to the
11 licensee or cardholder, date of issuance and date of expiration of
12 the license or card, the full name, signature or computerized
13 signature, date of birth, residence address, sex, a color photograph
14 or computerized image of the licensee or cardholder and security
15 features as determined by the Department. The photograph or image
16 shall depict a full front unobstructed view of the entire face of
17 the licensee or cardholder. When any person is issued both a driver
18 license and an identification card, the Department shall ensure the
19 information on both the license and the card are the same, unless
20 otherwise provided by law.

21 2. A driver license or identification card issued by the
22 Department on or after March 1, 2004, shall bear thereon the county
23 of residence of the licensee or cardholder.

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1 3. The Department may cancel the distinguishing number, when
2 that distinguishing number is another person's Social Security
3 number, assign a new distinguishing alphanumeric identification, and
4 issue a new license or identification card without charge to the
5 licensee or cardholder.

6 4. The Department may promulgate rules for inclusion of the
7 height and a brief description of the licensee or cardholder on the
8 face of the card or license identifying the licensee or cardholder
9 as deaf or hard-of-hearing.

10 5. It is unlawful for any person to apply, adhere, or otherwise
11 attach to a driver license or identification card any decal,
12 sticker, label, or other attachment. Any law enforcement officer is
13 authorized to remove and dispose of any unlawful decal, sticker,
14 label, or other attachment from the driver license of a person. The
15 law enforcement officer, the employing agency of the officer, the
16 Department of Public Safety, and the State of Oklahoma shall be
17 immune from any liability for any loss suffered by the licensee,
18 cardholder, or the owner of the decal, sticker, label, or other
19 attachment caused by the removal and destruction of the decal,
20 sticker, label, or other attachment.

21 6. The Department of Public Safety shall develop by rule an
22 alternative procedure whereby a person applying for a renewal or
23 replacement Class D license or identification card, when the person
24 satisfactorily demonstrates to the Department the inability to

1 appear personally to be photographed because the person is not in
2 the state at the time of renewal or at a time a replacement is
3 required by the person, may be issued a license or card; provided,
4 immediately upon returning to Oklahoma, the person shall obtain a
5 replacement license or card as provided in Section 6-114 of this
6 title.

7 B. The Department may issue a temporary permit to an applicant
8 for a driver license permitting such applicant to operate a motor
9 vehicle while the Department is completing its investigation and
10 determination of all facts relative to such applicant's privilege to
11 receive a license. Such permit must be in the immediate possession
12 of the driver while operating a motor vehicle, and it shall be
13 invalid when the applicant's driver license has been issued or for
14 good cause has been refused.

15 C. 1. The Department may issue a restricted commercial driver
16 license to seasonal drivers eighteen (18) years of age or older for
17 any of the following specific farm-related service industries:

- 18 a. farm retail outlets and suppliers,
- 19 b. agri-chemical businesses,
- 20 c. custom harvesters, and
- 21 d. livestock feeders.

22 The applicant shall hold a valid Oklahoma driver license and
23 shall meet all the requirements for a commercial driver license.

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1 The restricted commercial driver license shall not exceed a total of
2 one hundred eighty (180) days within any twelve-month period.

3 2. The restricted commercial driver license shall not be valid
4 for operators of commercial motor vehicles beyond one hundred fifty
5 (150) miles from the place of business or the farm currently being
6 served. Such license shall be limited to Class B vehicles. Holders
7 of such licenses who transport hazardous materials which are
8 required to be placarded shall be limited to the following:

9 a. diesel fuel in quantities of one thousand (1,000)
10 gallons or less,

11 b. liquid fertilizers in vehicles with total capacities
12 of three thousand (3,000) gallons or less, and

13 c. solid fertilizers that are not mixed with any organic
14 substance.

15 No other placarded hazardous materials shall be transported by
16 holders of such licenses.

17 D. 1. The Department shall develop a procedure whereby a
18 person applying for an original, renewal or replacement Class A, B,
19 C or D driver license or identification card who is required to
20 register as a convicted sex offender with the Department of
21 Corrections pursuant to the provisions of the Sex Offenders
22 Registration Act and who the Department of Corrections designates as
23 an aggravated or habitual offender pursuant to subsection J of
24

1 Section 584 of Title 57 of the Oklahoma Statutes shall be issued a
2 license or card bearing the words "Sex Offender".

3 2. The Department shall notify every person subject to
4 registration under the provisions of ~~this act~~ Section 1-101 et seq.
5 of this title who holds a current Class A, B, C or D driver license
6 or identification card that such person is required to surrender the
7 license or card to the Department within one hundred eighty (180)
8 days from the date of the notice.

9 3. Upon surrendering the license or card for the reason set
10 forth in this subsection, application may be made with the
11 Department for a replacement license or card bearing the words "Sex
12 Offender".

13 4. Failure to comply with the requirements set forth in such
14 notice shall result in cancellation of the person's license or card.
15 Such cancellation shall be in effect for one (1) year, after which
16 time the person may make application with the Department for a new
17 license or card bearing the words "Sex Offender". Continued use of
18 a canceled license or card shall constitute a misdemeanor and shall,
19 upon conviction thereof, be punishable by a fine of not less than
20 Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars
21 (\$200.00). When an individual is no longer required to register as
22 a convicted sex offender with the Department of Corrections pursuant
23 to the provisions of the Sex Offenders Registration Act, the
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1 individual shall be eligible to receive a driver license or
2 identification card which does not bear the words "Sex Offender".

3 E. Nothing in subsection D of this section shall be deemed to
4 impose any liability upon or give rise to a cause of action against
5 any employee, agent or official of the Department of Corrections for
6 failing to designate a sex offender as an aggravated or habitual
7 offender pursuant to subsection J of Section 584 of Title 57 of the
8 Oklahoma Statutes.

9 F. The Department shall develop a procedure whereby a person
10 subject to a court order for the installation of an ignition
11 interlock device shall be required by the Department to submit their
12 driver license or identification card for a replacement. The
13 replacement driver license or identification card shall bear the
14 words "DUI conviction" and such designation shall remain on the
15 driver license or identification card for the duration of the court
16 order requiring the ignition interlock device. The replacement
17 license or identification card shall be subject to the same
18 expiration and renewal procedures provided by law. Upon completion
19 of the court order requirements for the interlock device, a person
20 may apply for a replacement driver license or identification card
21 along with the court order reflecting the completion of the time
22 period.

23 G. The Department shall develop a procedure whereby a person
24 applying for an original, renewal or replacement Class D driver

1 license who has been granted modified driving privileges under this
2 title shall be issued a Class D driver license which identifies the
3 license as a modified license.

4 SECTION 3. AMENDATORY Section 1, Chapter 167, O.S.L.
5 2005, as amended by Section 18, Chapter 394, O.S.L. 2005 (47 O.S.
6 Supp. 2010, Section 6-212.3) is amended to read as follows:

7 Section 6-212.3 A. Whenever the records of the Department of
8 Public Safety reflect:

9 1. A second or subsequent conviction of a person for driving
10 under the influence of alcohol or the combination of alcohol and any
11 other intoxicating substance within five (5) years of a previous
12 conviction for the same offense; or

13 2. 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,
17 the person shall, upon request for reinstatement of driving
18 privileges from revocation or suspension based upon the conviction
19 or the status as an excessive user, provide proof of installation of
20 an ignition interlock device approved by the Board of Tests for
21 Alcohol and Drug Influence, at the person's own expense, upon every
22 motor vehicle operated by the person.

23 B. The Department shall require, as a condition of
24 reinstatement, the device to be installed upon any vehicle owned or

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

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

15 C. 1. The requirements of subsection A of this section shall
16 be a prerequisite and condition for reinstatement of driving
17 privileges, in addition to other conditions for driving privilege
18 reinstatement provided by law or by rule of the Department. The
19 Department shall issue a restricted driver license to the person,
20 upon payment of a restricted driver license fee of Fifty Dollars
21 (\$50.00) and all other appropriate fees by the person. The
22 restricted driver license and the driving record of the person shall
23 indicate by an appropriate restriction that the person is only
24 authorized to operate a vehicle upon which an ignition interlock is

1 installed. If the person is operating a motor vehicle owned or
2 leased by an employer who has not given permission for an ignition
3 interlock device to be installed, the employer shall provide the
4 person with a letter, on official letterhead of the employer, which
5 the person shall carry in his or her immediate possession at all
6 times when operating a motor vehicle and shall display for
7 examination and inspection upon demand of a peace officer.

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

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

17 D. 1. Installation of an ignition interlock device pursuant to
18 paragraph 1 of subsection A of this section shall be for a period of
19 ~~six (6) months~~ one (1) year which shall run ~~concurrently~~
20 consecutively with a court order, if any, for installation of an
21 ignition interlock device pursuant to the same conviction.

22 2. Installation of an ignition interlock device pursuant to
23 paragraph 2 of subsection A of this section shall be for a period of
24 ~~twelve (12) months~~ two (2) years which shall run ~~concurrently~~

1 consecutively with a court order, if any, for installation of an
2 ignition interlock device pursuant to a conviction which caused the
3 person to be classified as an excessive user of alcohol or of a
4 combination of alcohol and any other intoxicating substance.

5 E. The person shall pay the monthly maintenance fee for each
6 ignition interlock device installed pursuant to this section. The
7 person shall comply with all provisions of law regarding ignition
8 interlock devices.

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

12 G. Pursuant to Section 6-113 of ~~Title 47 of the Oklahoma~~
13 ~~Statutes~~ this title, the Department may revoke or suspend the
14 driving privileges of the person for reports from the provider which
15 indicate attempts by the person to operate a motor vehicle when the
16 person is under the influence of alcohol.

17 H. The Department shall promulgate rules necessary to implement
18 and administer this section.

19 SECTION 4. AMENDATORY 47 O.S. 2001, Section 11-902, as
20 last amended by Section 3, Chapter 310, O.S.L. 2009 (47 O.S. Supp.
21 2010, Section 11-902), is amended to read as follows:

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

1 public roads, highways, streets, turnpikes, other public places or
2 upon any private road, street, alley or lane which provides access
3 to one or more single or multi-family dwellings, who:

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

8 2. Is under the influence of alcohol;

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

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

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

20 C. 1. Any person who is convicted of a violation of the
21 provisions of this section shall be deemed guilty of a misdemeanor
22 for the first offense and shall participate in an assessment and
23 evaluation by an assessment agency or assessment personnel certified
24 by the Department of Mental Health and Substance Abuse Services

1 pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and
2 shall follow all recommendations made in the assessment and
3 evaluation and be punished by imprisonment in jail for not less than
4 ten (10) days nor more than one (1) year and be required to make use
5 of an ignition interlock device approved by the Board of Tests for
6 Alcohol and Drug Influence for not less than two (2) years. Any
7 person convicted of a violation for a first offense shall be fined
8 not more than One Thousand Dollars (\$1,000.00).

9 2. Any person who, within ten (10) years after a previous
10 conviction of a violation of this section or a violation pursuant to
11 the provisions of any law of another state prohibiting the offense
12 provided in subsection A of this section, is convicted of a second
13 offense pursuant to the provisions of this section or has a prior
14 conviction in a municipal criminal court of record for the violation
15 of a municipal ordinance prohibiting the offense provided for in
16 subsection A of this section and within ten (10) years of such
17 municipal conviction is convicted pursuant to the provision of this
18 section shall be deemed guilty of a felony and shall participate in
19 an assessment and evaluation by an assessment agency or assessment
20 personnel certified by the Department of Mental Health and Substance
21 Abuse Services pursuant to Section 3-460 of Title 43A of the
22 Oklahoma Statutes and shall be sentenced to:

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- 1 a. follow all recommendations made in the assessment and
2 evaluation for treatment at the defendant's expense,
3 or
4 b. placement in the custody of the Department of
5 Corrections for not less than one (1) year and not to
6 exceed five (5) years and a fine of not more than Two
7 Thousand Five Hundred Dollars (\$2,500.00), or
8 c. treatment, imprisonment and a fine within the
9 limitations prescribed in subparagraphs a and b of
10 this paragraph, and
11 d. use of an ignition interlock device for a period of
12 not less than five (5) years.

13 However, if the treatment in subparagraph a of this paragraph
14 does not include residential or inpatient treatment for a period of
15 not less than five (5) days, the person shall serve a term of
16 imprisonment of at least five (5) days.

17 3. Any person who is convicted of a second felony offense
18 pursuant to the provisions of this section shall participate in an
19 assessment and evaluation by an assessment agency or assessment
20 personnel certified by the Department of Mental Health and Substance
21 Abuse Services pursuant to Section 3-460 of Title 43A of the
22 Oklahoma Statutes and shall be sentenced to:

- 23 a. follow all recommendations made in the assessment and
24 evaluation for treatment at the defendant's expense,

1 two hundred forty (240) hours of community service and
2 use of an ignition interlock device for a period of
3 not less than five (5) years, or

4 b. placement in the custody of the Department of
5 Corrections for not less than one (1) year and not to
6 exceed ten (10) years and a fine of not more than Five
7 Thousand Dollars (\$5,000.00), or

8 c. treatment, imprisonment and a fine within the
9 limitations prescribed in subparagraphs a and b of
10 this paragraph.

11 However, if the treatment in subparagraph a of this paragraph
12 does not include residential or inpatient treatment for a period of
13 not less than ten (10) days, the person shall serve a term of
14 imprisonment of at least ten (10) days.

15 4. Any person who is convicted of a third or subsequent felony
16 offense pursuant to the provisions of this section shall participate
17 in an assessment and evaluation by an assessment agency or
18 assessment personnel certified by the Department of Mental Health
19 and Substance Abuse Services pursuant to Section 3-460 of Title 43A
20 of the Oklahoma Statutes and shall be sentenced to:

21 a. follow all recommendations made in the assessment and
22 evaluation for treatment at the defendant's expense,
23 followed by not less than one (1) year of supervision
24 and periodic testing at the defendant's expense, four

1 hundred eighty (480) hours of community service, and
2 use of an ignition interlock device for a ~~minimum of~~
3 ~~thirty (30) days~~ period of not less than eight (8)
4 years, or

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

9 c. treatment, imprisonment and a fine within the
10 limitations prescribed in subparagraphs a and b of
11 this paragraph.

12 However, if the person does not undergo residential or inpatient
13 treatment pursuant to subparagraph a of this paragraph the person
14 shall serve a term of imprisonment of at least ten (10) days.

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

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

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

8 D. Any person who is convicted of a violation of driving under
9 the influence with a blood or breath alcohol concentration of
10 fifteen-hundredths (0.15) or more pursuant to this section shall be
11 deemed guilty of aggravated driving under the influence. A person
12 convicted of aggravated driving under the influence shall
13 participate in an assessment and evaluation by an assessment agency
14 or assessment personnel certified by the Department of Mental Health
15 and Substance Abuse Services pursuant to Section 3-460 of Title 43A
16 of the Oklahoma Statutes and shall comply with all recommendations
17 for treatment. Such person shall be sentenced to not less than one
18 (1) year of supervision and periodic testing at the defendant's
19 expense, four hundred eighty (480) hours of community service, and
20 an ignition interlock device for a ~~minimum of thirty (30) days~~
21 period of not less than two (2) years. Nothing in this subsection
22 shall preclude the defendant from being charged or punished as
23 provided in paragraph 1, 2, 3, 4 or 5 of subsection C of this
24 section.

1 E. When a person is sentenced to imprisonment in the custody of
2 the Department of Corrections, the person shall be processed through
3 the Lexington Assessment and Reception Center or at a place
4 determined by the Director of the Department of Corrections. The
5 Department of Corrections shall classify and assign the person to
6 one or more of the following:

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

10 2. A correctional facility operated by the Department of
11 Corrections with assignment to substance abuse treatment.

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

16 G. Any person who is found guilty of a violation of the
17 provisions of this section shall be ordered to participate in, prior
18 to sentencing, an alcohol and drug substance abuse evaluation and
19 assessment program offered by a certified assessment agency or
20 certified assessor for the purpose of evaluating and assessing the
21 receptivity to treatment and prognosis of the person. The court
22 shall order the person to reimburse the agency or assessor for the
23 evaluation and assessment. The fee for an evaluation and assessment
24 shall be the amount provided in subsection C of Section 3-460 of

1 Title 43A of the Oklahoma Statutes. The evaluation and assessment
2 shall be conducted at a certified assessment agency, the office of a
3 certified assessor or at another location as ordered by the court.
4 The agency or assessor shall, within seventy-two (72) hours from the
5 time the person is evaluated and assessed, submit a written report
6 to the court for the purpose of assisting the court in its final
7 sentencing determination. If such report indicates that the
8 evaluation and assessment shows that the defendant would benefit
9 from a ten-hour or twenty-four-hour alcohol and drug substance abuse
10 course or a treatment program or both, the court shall, as a
11 condition of any sentence imposed, including deferred and suspended
12 sentences, require the person to follow all recommendations
13 identified by the evaluation and assessment and ordered by the
14 court. No person, agency or facility operating an evaluation and
15 assessment program certified by the Department of Mental Health and
16 Substance Abuse Services shall solicit or refer any person evaluated
17 and assessed pursuant to this section for any treatment program or
18 substance abuse service in which such person, agency or facility has
19 a vested interest; however, this provision shall not be construed to
20 prohibit the court from ordering participation in or any person from
21 voluntarily utilizing a treatment program or substance abuse service
22 offered by such person, agency or facility. If a person is
23 sentenced to imprisonment in the custody of the Department of
24 Corrections and the court has received a written evaluation report

1 pursuant to the provisions of this subsection, the report shall be
2 furnished to the Department of Corrections with the judgment and
3 sentence. Any evaluation and assessment report submitted to the
4 court pursuant to the provisions of this subsection shall be handled
5 in a manner which will keep such report confidential from the
6 general public's review. Nothing contained in this subsection shall
7 be construed to prohibit the court from ordering judgment and
8 sentence in the event the defendant fails or refuses to comply with
9 an order of the court to obtain the evaluation and assessment
10 required by this subsection. If the defendant fails or refuses to
11 comply with an order of the court to obtain the evaluation and
12 assessment, the Department of Public Safety shall not reinstate
13 driving privileges until the defendant has complied in full with
14 such order. Nothing contained in this subsection shall be construed
15 to prohibit the court from ordering judgment and sentence and any
16 other sanction authorized by law for failure or refusal to comply
17 with an order of the court.

18 H. Any person who is found guilty of a violation of the
19 provisions of this section may be required by the court to attend a
20 victims impact panel program, if such a program is offered in the
21 county where the judgment is rendered, and to pay a fee, not less
22 than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars
23 (\$25.00) as set by the governing authority of the program and
24 approved by the court, to the program to offset the cost of

1 participation by the defendant, if in the opinion of the court the
2 defendant has the ability to pay such fee.

3 I. Any person who is found guilty of a felony violation of the
4 provisions of this section may be required to submit to electronic
5 monitoring as authorized and defined by Section 991a of Title 22 of
6 the Oklahoma Statutes.

7 J. Any person who, within ten (10) years after a previous
8 conviction of a violation of this section or a violation pursuant to
9 the provisions of law of another state prohibiting the offense
10 provided in subsection A of this section or a violation of a
11 municipal ordinance prohibiting the offense provided in subsection A
12 of this section, pleads guilty or nolo contendere or is convicted of
13 a violation of this section shall not be required to undergo the
14 alcohol and drug substance evaluation program required by subsection
15 G of this section. The court shall, as a condition of any sentence
16 imposed, including deferred and suspended sentences, require the
17 person to participate in and successfully complete all
18 recommendations from the evaluation, such as an alcohol and drug
19 substance abuse treatment program pursuant to Section 3-452 of Title
20 43A of the Oklahoma Statutes.

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

1 L. When a person is found guilty of a violation of the
2 provisions of this section, the court shall order, in addition to
3 any other penalty, the defendant to pay a one-hundred-dollar
4 assessment to be deposited in the Drug Abuse Education and Treatment
5 Revolving Fund created in Section 2-503.2 of Title 63 of the
6 Oklahoma Statutes, upon collection.

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

15 2. Nothing in this subsection shall prohibit the prosecution of
16 a person pursuant to Section 852.1 of Title 21 of the Oklahoma
17 Statutes who is in violation of any provision of this section.

18 SECTION 5. AMENDATORY 47 O.S. 2001, Section 11-906.4, is
19 amended to read as follows:

20 Section 11-906.4 A. It is unlawful, and punishable as provided
21 in subsection B of this section, for any person under twenty-one
22 (21) years of age to drive, operate, or be in actual physical
23 control of a motor vehicle within this state who:
24

1 1. Has any measurable quantity of alcohol in the person's blood
2 or breath at the time of a test administered within two (2) hours
3 after an arrest of the person;

4 2. Exhibits evidence of being under the influence of any other
5 intoxicating substance as shown by analysis of a specimen of the
6 person's blood, breath, saliva, or urine in accordance with the
7 provisions of Sections 752 and 759 of this title; or

8 3. Exhibits evidence of the combined influence of alcohol and
9 any other intoxicating substance.

10 B. Any person under twenty-one (21) years of age who violates
11 any provision of this section shall be subject to the seizure of the
12 driver license of that person at the time of arrest or detention and
13 the person, upon conviction, shall be guilty of operating or being
14 in actual physical control of a motor vehicle while under the
15 influence while under age and shall be punished:

16 1. For a first offense, by:

17 a. a fine of not less than One Hundred Dollars (\$100.00)
18 nor more than Five Hundred Dollars (\$500.00), or

19 b. by assignment to and completion of twenty (20) hours
20 of community service, or

21 c. by requiring the person to attend and complete a
22 treatment program, or

23 d. by any combination of fine, community service, or
24 treatment, and

1 e. the installation of an ignition interlock device
2 approved by the Board of Tests for Alcohol and Drug
3 Influence for a period of not less than two (2) years;

4 2. Upon a second conviction, by:

- 5 a. assignment to and completion of not less than two
6 hundred forty (240) hours of community service, and
7 b. the requirement, after the conclusion of the mandatory
8 revocation period, to install an ignition interlock
9 device for a period of not less than ~~thirty (30) days~~
10 five (5) years, as ordered by the court, on every
11 vehicle owned by the person and on the vehicle
12 regularly operated by the person, if such vehicle is
13 not owned by the person, pursuant to Section 754.1 or
14 755 of this title. The installation of an ignition
15 interlock device, as required by this subparagraph,
16 shall not be construed to authorize the person to
17 drive unless the person is otherwise eligible to
18 drive.

19 In addition, a second conviction may be punished by a fine of not
20 less than One Hundred Dollars (\$100.00) nor more than One Thousand
21 Dollars (\$1,000.00), or by requiring the person to attend and
22 complete a treatment program, as recommended by the assessment
23 required pursuant to subparagraph c of paragraph 2 of subsection D
24 of this section, or by both; or

1 3. Upon a third or subsequent conviction, by:

- 2 a. assignment to and completion of not less than four
3 hundred eighty (480) hours of community service, and
4 b. the requirement, after the conclusion of the mandatory
5 revocation period, to install an ignition interlock
6 device for a period of not less than ~~thirty (30) days~~
7 eight (8) years, as ordered by the court, on every
8 vehicle owned by the person and on the vehicle
9 regularly operated by the person, if such vehicle is
10 not owned by the person, pursuant to Section 754.1 or
11 755 of this title. The installation of an ignition
12 interlock device, as required by this subparagraph,
13 shall not be construed to authorize the person to
14 drive unless the person is otherwise eligible to
15 drive.

16 In addition, a third or subsequent conviction may be punished by a
17 fine of not less than One Hundred Dollars (\$100.00) nor more than
18 Two Thousand Dollars (\$2,000.00), or by requiring the person to
19 attend and complete a treatment program, as recommended by the
20 assessment required pursuant to subparagraph c of paragraph 2 of
21 subsection D of this section, or by both.

22 C. The court may assess additional community service hours in
23 lieu of any fine specified in this section.
24

1 D. In addition to any penalty or condition imposed pursuant to
2 the provisions of this section, the person shall be subject to:

3 1. Upon a first conviction:

4 a. the cancellation or denial of driving privileges as
5 ordered by the court pursuant to Section 6-107.1 of
6 this title, and

7 b. the mandatory revocation of driving privileges
8 pursuant to Section 6-205.1, 753 or 754 of this title,
9 which revocation period may be modified as provided by
10 law; and

11 2. Upon a second or subsequent conviction:

12 a. the cancellation or denial of driving privileges for a
13 period of two (2) years or until the person attains
14 eighteen (18) years of age, whichever is longer,
15 pursuant to subsection B of Section 6-107.2 of this
16 title,

17 b. the mandatory revocation of driving privileges
18 pursuant to Section 6-205.1, 753 or 754 of this title,
19 which period may be modified as provided by law, and

20 c. an assessment of the person's degree of alcohol abuse,
21 in the same manner as prescribed in subsection H of
22 Section 11-902 of this title, which may result in
23 treatment as deemed appropriate by the court.
24

1 E. Nothing in this section shall be construed to prohibit the
2 filing of charges pursuant to Section 761 or 11-902 of this title
3 when the facts warrant.

4 F. As used in this section:

5 1. The term "conviction" includes a juvenile delinquency
6 adjudication by a court; and

7 2. The term "revocation" includes the cancellation or denial of
8 driving privileges by the Department.

9 SECTION 6. This act shall become effective November 1, 2011.

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