

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 2662

By: Derby

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to motor vehicles; amending 47 O.S.
9 2011, Section 11-902, as last amended by Section 3,
10 Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2013, Section
11 11-902), which relates to driving under the influence
12 of alcohol; deleting penalty and sentencing
13 provisions for driving under the influence and
14 aggravated driving under the influence; providing
15 penalty provisions for driving under the influence;
16 making certain acts unlawful; providing penalties;
17 requiring Department of Corrections to classify and
18 assign inmates to certain treatment; requiring
19 participation in certain evaluation and assessment
20 program; providing assessment and evaluation
21 guidelines; providing sentencing options; authorizing
22 witness testimony on certain issues; authorizing
23 Department of Public Safety to reinstate driving
24 privileges; amending 37 O.S. 2011, Section 246, which
relates to consumption of low-point beer by minors;
modifying statutory reference; amending 47 O.S. 2011,
Section 11-906.4, which relates to minors operating a
motor vehicle while under the influence; modifying
statutory references; amending 63 O.S. 2011, Section
2-503.2, as amended by Section 500, Chapter 304,
O.S.L. 2012 (63 O.S. Supp. 2013, Section 2-503.2),
which relates to assessments for violating certain
laws; modifying statutory reference; providing for
codification; and providing an effective date.

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

1 SECTION 1. AMENDATORY 47 O.S. 2011, Section 11-902, as
2 last amended by Section 3, Chapter 393, O.S.L. 2013 (47 O.S. Supp.
3 2013, Section 11-902), is amended to read as follows:

4 Section 11-902.

5 DRIVING UNDER THE INFLUENCE OF ALCOHOL

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

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

16 2. Is under the influence of alcohol;

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

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

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

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

12 ~~C. 1. Any person who is convicted of a violation of the~~
13 ~~provisions of this section shall be guilty of a misdemeanor for the~~
14 ~~first offense and shall:~~

- 15 a. ~~participate in an assessment and evaluation pursuant~~
16 ~~to subsection C of this section and shall follow all~~
17 ~~recommendations made in the assessment and evaluation,~~
18 b. ~~be punished by imprisonment in jail for not less than~~
19 ~~ten (10) days nor more than one (1) year, and~~
20 c. ~~be fined not more than One Thousand Dollars~~
21 ~~(\$1,000.00).~~

22 ~~2. Any person who, during the period of any court-imposed~~
23 ~~probationary term or within ten (10) years of the date following the~~
24 ~~completion of the execution of any sentence or deferred judgment for~~

1 ~~a violation of this section or a violation pursuant to the~~
2 ~~provisions of any law of this state or another state prohibiting the~~
3 ~~offenses provided in subsection A of this section, Section 11-904 of~~
4 ~~this title or paragraph 4 of subsection A of Section 852.1 of Title~~
5 ~~21 of the Oklahoma Statutes, commits a second offense pursuant to~~
6 ~~the provisions of this section or has a prior conviction in a~~
7 ~~municipal criminal court of record for the violation of a municipal~~
8 ~~ordinance prohibiting the offense provided for in subsection A of~~
9 ~~this section and within ten (10) years of the date following the~~
10 ~~completion of the execution of such sentence or deferred judgment~~
11 ~~commits a second offense pursuant to the provisions of this section~~
12 ~~shall, upon conviction, be guilty of a felony and shall participate~~
13 ~~in an assessment and evaluation pursuant to subsection G of this~~
14 ~~section and shall be sentenced to:~~

- 15 ~~a. follow all recommendations made in the assessment and~~
16 ~~evaluation for treatment at the defendant's expense,~~
17 ~~or~~
- 18 ~~b. placement in the custody of the Department of~~
19 ~~Corrections for not less than one (1) year and not to~~
20 ~~exceed five (5) years and a fine of not more than Two~~
21 ~~Thousand Five Hundred Dollars (\$2,500.00), or~~
- 22 ~~c. treatment, imprisonment and a fine within the~~
23 ~~limitations prescribed in subparagraphs a and b of~~
24 ~~this paragraph.~~

1 ~~However, if the treatment in subsection G of this section does not~~
2 ~~include residential or inpatient treatment for a period of not less~~
3 ~~than five (5) days, the person shall serve a term of imprisonment of~~
4 ~~at least five (5) days.~~

5 ~~3. Any person who is convicted of a second felony offense~~
6 ~~pursuant to the provisions of this section or a violation pursuant~~
7 ~~to the provisions of any law of this state or another state~~
8 ~~prohibiting the offenses provided for in subsection A of this~~
9 ~~section, Section 11-904 of this title or paragraph 4 of subsection A~~
10 ~~of Section 852.1 of Title 21 of the Oklahoma Statutes shall~~
11 ~~participate in an assessment and evaluation pursuant to subsection G~~
12 ~~of this section and shall be sentenced to:~~

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

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

4 ~~However, if the treatment in subsection C of this section does not~~
5 ~~include residential or inpatient treatment for a period of not less~~
6 ~~than ten (10) days, the person shall serve a term of imprisonment of~~
7 ~~at least ten (10) days.~~

8 4. ~~Any person who is convicted of a third or subsequent felony~~
9 ~~offense pursuant to the provisions of this section or a violation~~
10 ~~pursuant to the provisions of any law of this state or another state~~
11 ~~prohibiting the offenses provided for in subsection A of this~~
12 ~~section, Section 11-904 of this title or paragraph 4 of subsection A~~
13 ~~of Section 852.1 of Title 21 of the Oklahoma Statutes shall~~
14 ~~participate in an assessment and evaluation pursuant to subsection G~~
15 ~~of this section and shall be sentenced to:~~

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

- 1 ~~b. placement in the custody of the Department of~~
2 ~~Corrections for not less than one (1) year and not to~~
3 ~~exceed twenty (20) years and a fine of not more than~~
4 ~~Five Thousand Dollars (\$5,000.00), or~~
5 ~~e. treatment, imprisonment and a fine within the~~
6 ~~limitations prescribed in subparagraphs a and b of~~
7 ~~this paragraph.~~

8 ~~However, if the person does not undergo residential or inpatient~~
9 ~~treatment pursuant to subsection C of this section the person shall~~
10 ~~serve a term of imprisonment of at least ten (10) days.~~

11 ~~5. Any person who, after a previous conviction of a violation~~
12 ~~of murder in the second degree or manslaughter in the first degree~~
13 ~~in which the death was caused as a result of driving under the~~
14 ~~influence of alcohol or other intoxicating substance, is convicted~~
15 ~~of a violation of this section shall be guilty of a felony and shall~~
16 ~~be punished by imprisonment in the custody of the Department of~~
17 ~~Corrections for not less than five (5) years and not to exceed~~
18 ~~twenty (20) years, and a fine of not more than Ten Thousand Dollars~~
19 ~~(\$10,000.00).~~

20 ~~6. Provided, however, a conviction from another state shall not~~
21 ~~be used to enhance punishment pursuant to the provisions of this~~
22 ~~subsection if that conviction is based on a blood or breath alcohol~~
23 ~~concentration of less than eight hundredths (0.08).~~
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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 pursuant to subsection G~~
14 ~~of this section and shall comply with all recommendations for~~
15 ~~treatment. Such person shall be sentenced to:~~

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

18 ~~2. An ignition interlock device or devices, as provided by~~
19 ~~subparagraph n of paragraph 1 of subsection A of Section 991a of~~
20 ~~Title 22 of the Oklahoma Statutes, for a minimum of ninety (90)~~
21 ~~days.~~

22 ~~Nothing in this subsection shall preclude the defendant from being~~
23 ~~charged or punished as provided in paragraph 1, 2, 3, 4 or 5 of~~
24 ~~subsection C of this section. Any person who is convicted pursuant~~

1 ~~to the provisions of this subsection shall be guilty of a~~
2 ~~misdemeanor for a first offense and shall be punished as provided in~~
3 ~~paragraph 1 of subsection C of this section. Any person who, during~~
4 ~~the period of any court-imposed probationary term or within ten (10)~~
5 ~~years of the completion of the execution of any sentence or deferred~~
6 ~~judgment, commits a second violation of this subsection shall, upon~~
7 ~~conviction, be guilty of a felony and shall be punished as provided~~
8 ~~in paragraph 2 of subsection C of this section. Any person who~~
9 ~~commits a second felony offense pursuant to this subsection shall,~~
10 ~~upon conviction, be guilty of a felony and shall be punished as~~
11 ~~provided in paragraph 3 of subsection C of this section. Any person~~
12 ~~who commits a third or subsequent felony offense pursuant to the~~
13 ~~provisions of this subsection shall, upon conviction, be guilty of a~~
14 ~~felony and shall be punished as provided in paragraph 4 of~~
15 ~~subsection C of this section.~~

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

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

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

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

13 ~~G. Any person who is found guilty of a violation of the~~
14 ~~provisions of this section shall be ordered to participate in an~~
15 ~~alcohol and drug substance abuse evaluation and assessment program~~
16 ~~offered by a certified assessment agency or certified assessor for~~
17 ~~the purpose of evaluating and assessing the receptivity to treatment~~
18 ~~and prognosis of the person and shall follow all recommendations~~
19 ~~made in the assessment and evaluation for treatment. The court~~
20 ~~shall order the person to reimburse the agency or assessor for the~~
21 ~~evaluation and assessment. Payment shall be remitted by the~~
22 ~~defendant or on behalf of the defendant by any third party;~~
23 ~~provided, no state appropriated funds are utilized. The fee for an~~
24 ~~evaluation and assessment shall be the amount provided in subsection~~

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

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

23 H. ~~Any person who is found guilty of a violation of the~~
24 ~~provisions of this section may be required by the court to attend a~~

1 ~~victims impact panel program, as defined in subsection H of Section~~
2 ~~991a of Title 22 of the Oklahoma Statutes, if such a program is~~
3 ~~offered in the county where the judgment is rendered, and to pay a~~
4 ~~fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty~~
5 ~~Dollars (\$60.00) as set by the governing authority of the program~~
6 ~~and approved by the court to the program to offset the cost of~~
7 ~~participation by the defendant, if in the opinion of the court the~~
8 ~~defendant has the ability to pay such fee.~~

9 I. ~~Any person who is found guilty of a felony violation of the~~
10 ~~provisions of this section shall be required to submit to electronic~~
11 ~~monitoring as authorized and defined by Section 991a of Title 22 of~~
12 ~~the Oklahoma Statutes.~~

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

17 K. ~~When a person is found guilty of a violation of the~~
18 ~~provisions of this section, the court shall order, in addition to~~
19 ~~any other penalty, the defendant to pay a one hundred dollar~~
20 ~~assessment to be deposited in the Drug Abuse Education and Treatment~~
21 ~~Revolving Fund created in Section 2-503.2 of Title 63 of the~~
22 ~~Oklahoma Statutes, upon collection.~~

23 L. 1. ~~When a person is eighteen (18) years of age or older,~~
24 ~~and is the driver, operator, or person in physical control of a~~

1 ~~vehicle, and is convicted of violating any provision of this section~~
2 ~~while transporting or having in the motor vehicle any child less~~
3 ~~than eighteen (18) years of age, the fine shall be enhanced to~~
4 ~~double the amount of the fine imposed for the underlying driving~~
5 ~~under the influence (DUI) violation which shall be in addition to~~
6 ~~any other penalties allowed by this section.~~

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

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

20 ~~N. If qualified by knowledge, skill, experience, training or~~
21 ~~education, a witness shall be allowed to testify in the form of an~~
22 ~~opinion or otherwise solely on the issue of impairment, but not on~~
23 ~~the issue of specific alcohol concentration level, relating to the~~
24 ~~following:~~

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

5 ~~2. Whether a person was under the influence of one or more~~
6 ~~impairing substances and the category of such impairing substance or~~
7 ~~substances. A witness who has received training and holds a current~~
8 ~~certification as a drug recognition expert shall be qualified to~~
9 ~~give the testimony in any case in which such testimony may be~~
10 ~~relevant.~~

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 11-902c of Title 47, unless
13 there is created a duplication in numbering, reads as follows:

14 DRIVING UNDER THE INFLUENCE - PENALTY

15 A. 1. Any person who is convicted of a violation of the
16 provisions of Section 11-902 of Title 47 of the Oklahoma Statutes
17 shall be guilty of a misdemeanor for the first offense and shall:

- 18 a. participate in an assessment and evaluation pursuant
19 to Section 5 of this act and shall follow all
20 recommendations made in the assessment and evaluation,
21 b. be punished by imprisonment in jail for not less than
22 ten (10) days nor more than one (1) year, and
23 c. be fined not more than One Thousand Dollars
24 (\$1,000.00).

1 2. Any person who, during the period of any court-imposed
2 probationary term or within ten (10) years of the date following the
3 completion of the execution of any sentence or deferred judgment for
4 a violation of Section 11-902 of Title 47 of the Oklahoma Statutes
5 or a violation pursuant to the provisions of any law of this state
6 or another state prohibiting the offenses provided in Section 11-902
7 of Title 47 of the Oklahoma Statutes, Section 11-904 of Title 47 of
8 the Oklahoma Statutes or paragraph 4 of subsection A of Section
9 852.1 of Title 21 of the Oklahoma Statutes, commits a second offense
10 pursuant to the provisions of Section 11-902 of Title 47 of the
11 Oklahoma Statutes or has a prior conviction in a municipal criminal
12 court of record for the violation of a municipal ordinance
13 prohibiting the offenses provided for in Section 11-902 of Title 47
14 of the Oklahoma Statutes and within ten (10) years of the date
15 following the completion of the execution of such sentence or
16 deferred judgment commits a second offense pursuant to the
17 provisions of Section 11-902 of Title 47 of the Oklahoma Statutes
18 shall, upon conviction, be guilty of a felony and shall participate
19 in an assessment and evaluation pursuant to Section 5 of this act
20 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 or

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- 1 b. placement in the custody of the Department of
2 Corrections for not less than one (1) year and not to
3 exceed five (5) years and a fine of not more than Two
4 Thousand Five Hundred Dollars (\$2,500.00), or
5 c. treatment, imprisonment and a fine within the
6 limitations prescribed in subparagraphs a and b of
7 this paragraph.

8 However, if the treatment in Section 5 of this act does not
9 include residential or inpatient treatment for a period of not less
10 than five (5) days, the person shall serve a term of imprisonment of
11 at least five (5) days.

12 3. Any person who is convicted of a second felony offense
13 pursuant to the provisions of Section 11-902 of Title 47 of the
14 Oklahoma Statutes or a violation pursuant to the provisions of any
15 law of this state or another state prohibiting the offenses provided
16 for in Section 11-902 of Title 47 of the Oklahoma Statutes, Section
17 11-904 of Title 47 of the Oklahoma Statutes or paragraph 4 of
18 subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes
19 shall participate in an assessment and evaluation pursuant to
20 Section 5 of this act 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 two hundred forty (240) hours of community service and
24 use of an ignition interlock device, as provided by

- 1 subparagraph n of paragraph 1 of subsection A of
2 Section 991a of Title 22 of the Oklahoma Statutes, or
3 b. placement in the custody of the Department of
4 Corrections for not less than one (1) year and not to
5 exceed ten (10) years and a fine of not more than Five
6 Thousand Dollars (\$5,000.00), or
7 c. treatment, imprisonment and a fine within the
8 limitations prescribed in subparagraphs a and b of
9 this paragraph.

10 However, if the treatment in Section 5 of this act does not
11 include residential or inpatient treatment for a period of not less
12 than ten (10) days, the person shall serve a term of imprisonment of
13 at least ten (10) days.

14 4. Any person who is convicted of a third or subsequent felony
15 offense pursuant to the provisions of this section or a violation
16 pursuant to the provisions of any law of this state or another state
17 prohibiting the offenses provided for in Section 11-902 of Title 47
18 of the Oklahoma Statutes, Section 11-904 of Title 47 of the Oklahoma
19 Statutes or paragraph 4 of subsection A of Section 852.1 of Title 21
20 of the Oklahoma Statutes shall participate in an assessment and
21 evaluation pursuant to Section 5 of this act and shall be sentenced
22 to:

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

1 followed by not less than one (1) year of supervision
2 and periodic testing at the defendant's expense, four
3 hundred eighty (480) hours of community service, and
4 use of an ignition interlock device, as provided by
5 subparagraph n of paragraph 1 of subsection A of
6 Section 991a of Title 22 of the Oklahoma Statutes, for
7 a minimum of thirty (30) days, or

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

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

15 However, if the person does not undergo residential or inpatient
16 treatment pursuant to Section 5 of this act the person shall serve a
17 term of imprisonment of at least ten (10) days.

18 5. Any person who, after a previous conviction of a violation
19 of murder in the second degree or manslaughter in the first degree
20 in which the death was caused as a result of driving under the
21 influence of alcohol or other intoxicating substance, is convicted
22 of a violation of Section 11-902 of Title 47 of the Oklahoma
23 Statutes shall be guilty of a felony and shall be punished by
24 imprisonment in the custody of the Department of Corrections for not

1 less than five (5) years and not to exceed twenty (20) years, and a
2 fine of not more than Ten Thousand Dollars (\$10,000.00).

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

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

14 D. Any person who is found guilty of a violation of the
15 provisions of Section 11-902 of Title 47 of the Oklahoma Statutes
16 who has been sentenced by the court to perform any type of community
17 service shall not be permitted to pay a fine in lieu of performing
18 the community service.

19 E. When a person is found guilty of a violation of the
20 provisions of this section, the court shall order the defendant, in
21 addition to any other penalty, to pay a one-hundred-dollar
22 assessment to be deposited in the Drug Abuse Education and Treatment
23 Revolving Fund created in Section 2-503.2 of Title 63 of the
24 Oklahoma Statutes, upon collection.

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

9 2. Nothing in this subsection shall prohibit the prosecution of
10 a person pursuant to Section 852.1 of Title 21 of the Oklahoma
11 Statutes who is in violation of any provision of this section or
12 Section 11-904 of Title 47 of the Oklahoma Statutes.

13 G. Any plea of guilty, nolo contendere or finding of guilt for
14 a violation of Section 11-902 of Title 47 of the Oklahoma Statutes
15 or a violation pursuant to the provisions of any law of this state
16 or another state prohibiting the offenses provided for in Section
17 11-902 of Title 47 of the Oklahoma Statutes, Section 11-904 of Title
18 47 of the Oklahoma Statutes, or paragraph 4 of subsection A of
19 Section 852.1 of Title 21 of the Oklahoma Statutes, shall constitute
20 a conviction of the offense for the purpose of this section for a
21 period of ten (10) years following the completion of any court-
22 imposed probationary term.

23
24

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 11-902d of Title 47, unless
3 there is created a duplication in numbering, reads as follows:

4 AGGRAVATED DRIVING UNDER THE INFLUENCE - PENALTY

5 A. Any person who is convicted of a violation of driving under
6 the influence with a blood or breath alcohol concentration of
7 fifteen-hundredths (0.15) or more pursuant to Section 11-902 of
8 Title 47 of the Oklahoma Statutes shall be deemed guilty of
9 aggravated driving under the influence. A person convicted of
10 aggravated driving under the influence shall participate in an
11 assessment and evaluation pursuant to Section 5 of this act and
12 shall comply with all recommendations for treatment. Such person
13 shall be sentenced to:

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

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

20 B. Nothing in this section shall preclude the defendant from
21 being charged or punished as provided in paragraph 1, 2, 3, 4 or 5
22 of subsection A of Section 2 of this act. Any person who is
23 convicted pursuant to the provisions of this section shall be guilty
24 of a misdemeanor for a first offense and shall be punished as

1 provided in paragraph 1 of subsection A of Section 2 of this act.
2 Any person who, during the period of any court-imposed probationary
3 term or within ten (10) years of the completion of the execution of
4 any sentence or deferred judgment, commits a second violation of
5 this section shall, upon conviction, be guilty of a felony and shall
6 be punished as provided in paragraph 2 of subsection A of Section 2
7 of this act. Any person who commits a second felony offense
8 pursuant to this section shall, upon conviction, be guilty of a
9 felony and shall be punished as provided in paragraph 3 of
10 subsection A of Section 2 of this act. Any person who commits a
11 third or subsequent felony offense pursuant to the provisions of
12 this section shall, upon conviction, be guilty of a felony and shall
13 be punished as provided in paragraph 4 of subsection A of Section 2
14 of this act.

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

19 D. When a person is found guilty of a violation of the
20 provisions of this section, the court shall order the defendant, in
21 addition to any other penalty, to pay a one-hundred-dollar
22 assessment to be deposited in the Drug Abuse Education and Treatment
23 Revolving Fund created in Section 2-503.2 of Title 63 of the
24 Oklahoma Statutes, upon collection.

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

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

13 F. Any plea of guilty, nolo contendere or finding of guilt for
14 a violation of this section or a violation pursuant to the
15 provisions of any law of this state or another state prohibiting the
16 offenses provided for in Section 11-902 of Title 47 of the Oklahoma
17 Statutes, Section 11-904 of Title 47 of the Oklahoma Statutes, or
18 paragraph 4 of subsection A of Section 852.1 of Title 21 of the
19 Oklahoma Statutes shall constitute a conviction of the offense for
20 the purpose of this section for a period of ten (10) years following
21 the completion of any court-imposed probationary term.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 11-902e of Title 47, unless
24 there is created a duplication in numbering, reads as follows:

1 When a person is sentenced to imprisonment in the custody of the
2 Department of Corrections pursuant to Section 2 or 3 of this act,
3 the person shall be processed through the Lexington Assessment and
4 Reception Center or at a place determined by the Director of the
5 Department of Corrections. The Department of Corrections shall
6 classify and assign the person to 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 Successful completion of a Department-of-Corrections-approved
13 substance abuse treatment program shall satisfy the recommendation
14 for a ten-hour or twenty-four-hour alcohol and drug substance abuse
15 course or treatment program or both. Successful completion of an
16 approved Department of Corrections substance abuse treatment program
17 may precede or follow the required assessment.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 11-902f of Title 47, unless
20 there is created a duplication in numbering, reads as follows:

21 A. Any person who is found guilty of a violation of the
22 provisions of Section 11-902 of Title 47 of the Oklahoma Statutes or
23 Section 3 of this act shall be ordered to participate in an alcohol
24 and drug substance abuse evaluation and assessment program offered

1 by a certified assessment agency or certified assessor for the
2 purpose of evaluating and assessing the receptivity to treatment and
3 prognosis of the person and shall follow all recommendations made in
4 the assessment and evaluation for treatment.

5 B. The court shall order the person to reimburse the agency or
6 assessor for the evaluation and assessment. Payment shall be
7 remitted by the defendant or on behalf of the defendant by any third
8 party, provided no state-appropriated funds are utilized. The fee
9 for an evaluation and assessment shall be the amount provided in
10 subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes.

11 C. The evaluation and assessment shall be conducted at a
12 certified assessment agency, the office of a certified assessor or
13 at another location as ordered by the court. The agency or assessor
14 shall, within seventy-two (72) hours from the time the person is
15 evaluated and assessed, submit a written report to the court for the
16 purpose of assisting the court in its sentencing determination. The
17 court shall, as a condition of any sentence imposed, including
18 deferred and suspended sentences, require the person to participate
19 in and successfully complete all recommendations from the
20 evaluation, such as an alcohol and substance abuse treatment program
21 pursuant to Section 3-452 of Title 43A of the Oklahoma Statutes. If
22 such report indicates that the evaluation and assessment shows that
23 the defendant would benefit from a ten-hour or twenty-four-hour
24 alcohol and drug substance abuse course or a treatment program or

1 both, the court shall, as a condition of any sentence imposed,
2 including deferred and suspended sentences, require the person to
3 follow all recommendations identified by the evaluation and
4 assessment and ordered by the court.

5 D. No person, agency or facility operating an evaluation and
6 assessment program certified by the Department of Mental Health and
7 Substance Abuse Services shall solicit or refer any person evaluated
8 and assessed pursuant to this section for any treatment program or
9 substance abuse service in which such person, agency or facility has
10 a vested interest; however, this provision shall not be construed to
11 prohibit the court from ordering participation in or any person from
12 voluntarily utilizing a treatment program or substance abuse service
13 offered by such person, agency or facility.

14 E. If a person is sentenced to imprisonment in the custody of
15 the Department of Corrections and the court has received a written
16 evaluation report pursuant to the provisions of this section, the
17 report shall be furnished to the Department of Corrections with the
18 judgment and sentence. Any evaluation and assessment report
19 submitted to the court pursuant to the provisions of this section
20 shall be handled in a manner which will keep such report
21 confidential from general public review.

22 F. Nothing contained in this section shall be construed to
23 prohibit the court from ordering judgment and sentence in the event
24 the defendant fails or refuses to comply with an order of the court

1 to obtain the evaluation and assessment required by this section.
2 If the defendant fails or refuses to comply with an order of the
3 court to obtain the evaluation and assessment, the Department of
4 Public Safety shall not reinstate driving privileges until the
5 defendant has complied in full with such order.

6 G. Nothing contained in this section shall be construed to
7 prohibit the court from ordering judgment and sentence and any other
8 sanction authorized by law for failure or refusal to comply with an
9 order of the court.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 11-902g of Title 47, unless
12 there is created a duplication in numbering, reads as follows:

13 Any person who is found guilty of a violation of the provisions
14 of Section 11-902 of Title 47 of the Oklahoma Statutes or Section 3
15 of this act may be required by the court to attend a victims impact
16 panel program, as defined in subsection H of Section 991a of Title
17 22 of the Oklahoma Statutes, if such a program is offered in the
18 county where the judgment is rendered, and to pay a fee of not less
19 than Fifteen Dollars (\$15.00) nor more than Sixty Dollars (\$60.00)
20 as set by the governing authority of the program and approved by the
21 court to the program to offset the cost of participation by the
22 defendant, if in the opinion of the court the defendant has the
23 ability to pay such fee.

24

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 11-902h of Title 47, unless
3 there is created a duplication in numbering, reads as follows:

4 Any person who is found guilty of a felony violation of the
5 provisions of Section 11-902 of Title 47 of the Oklahoma Statutes or
6 Section 3 of this act shall be required to submit to electronic
7 monitoring as authorized and defined by Section 991a of Title 22 of
8 the Oklahoma Statutes.

9 SECTION 8. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 11-902i of Title 47, unless
11 there is created a duplication in numbering, reads as follows:

12 If qualified by knowledge, skill, experience, training or
13 education, a witness shall be allowed to testify in the form of an
14 opinion or otherwise solely on the issue of impairment, but not on
15 the issue of specific alcohol concentration level, relating to the
16 following:

17 1. The results of any standardized field sobriety test
18 including, but not limited to, the horizontal gaze nystagmus (HGN)
19 test administered by a person who has completed training in
20 standardized field sobriety testing; or

21 2. Whether a person was under the influence of one or more
22 impairing substances and the category of such impairing substance or
23 substances. A witness who has received training and holds a current
24 certification as a drug recognition expert shall be qualified to

1 give the testimony in any case in which such testimony may be
2 relevant.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 11-902j of Title 47, unless
5 there is created a duplication in numbering, reads as follows:

6 The Department of Public Safety is hereby authorized to
7 reinstate any suspended or revoked driving privilege when the person
8 meets the statutory requirements which affect the existing driving
9 privilege.

10 SECTION 10. AMENDATORY 37 O.S. 2011, Section 246, is
11 amended to read as follows:

12 Section 246. A. No person under twenty-one (21) years of age
13 shall consume or possess with the intent to consume low-point beer,
14 as defined in Section 163.2 of this title. It shall be unlawful for
15 any person under twenty-one (21) years of age to purchase or attempt
16 to purchase low-point beer, as defined in Section 163.2 of this
17 title, except under supervision of law enforcement officers. Any
18 person violating any of the provisions of this subsection shall be
19 guilty, upon conviction, of a misdemeanor and punished by a fine not
20 to exceed Three Hundred Dollars (\$300.00) or ordered to perform
21 community service not to exceed thirty (30) hours, or both such fine
22 and community service. In addition, if the person has an Oklahoma
23 driver license issued by the Department of Public Safety, that
24 license shall be revoked for the period of time provided in Section

1 6-107.1 of Title 47 of the Oklahoma Statutes. If the person does
2 not have an Oklahoma driver license, the person shall be ineligible
3 to obtain an Oklahoma driver license for the period of time provided
4 in Section 6-107.1 of Title 47 of the Oklahoma Statutes. For a
5 second offense, any person who is convicted of violating the
6 provisions of this subsection shall be guilty of a misdemeanor and
7 punished by a fine of not to exceed Six Hundred Dollars (\$600.00) or
8 ordered to perform community service not to exceed sixty (60) hours
9 or both such fine and community service. In addition, if the person
10 has an Oklahoma driver license issued by the Department of Public
11 Safety, that license shall be revoked for the period of time
12 provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes.
13 If the person does not have an Oklahoma driver license, the person
14 shall be ineligible to obtain an Oklahoma driver license for the
15 period of time provided in Section 6-107.1 of Title 47 of the
16 Oklahoma Statutes. For a third offense, any person who is convicted
17 of violating the provisions of this subsection shall be guilty of a
18 misdemeanor and punished by a fine of not to exceed Nine Hundred
19 Dollars (\$900.00) or ordered to perform community service not to
20 exceed ninety (90) hours or both such fine and community service.
21 In addition, if the person has an Oklahoma driver license issued by
22 the Department of Public Safety, that license shall be revoked for
23 the period of time provided in Section 6-107.1 of Title 47 of the
24 Oklahoma Statutes. If the person does not have an Oklahoma driver

1 license, the person shall be ineligible to obtain an Oklahoma driver
2 license for the period of time provided in Section 6-107.1 of Title
3 47 of the Oklahoma Statutes. Provided, the provisions of this
4 subsection shall not apply when such persons are under the direct
5 supervision of their parent or guardian, but in no instance shall
6 this exception be interpreted to allow such persons to consume such
7 beverages in any place licensed to dispense low-point beer as
8 provided in Section 163.11 of this title.

9 In addition to any penalty or condition imposed pursuant to the
10 provisions of this subsection, the person shall be subject to an
11 assessment of the person's degree of alcohol abuse, in the same
12 manner as prescribed in ~~subsection C of Section 11-902 of Title 47~~
13 ~~of the Oklahoma Statutes~~ Section 5 of this act, which may result in
14 treatment as deemed appropriate by the court.

15 B. If the premises of a holder of a license to sell low-point
16 beer contains a separate or enclosed bar area which has as its main
17 purpose the sale or serving of low-point beer for consumption on the
18 premises, no person under twenty-one (21) years of age shall enter,
19 attempt to enter, or remain in said area. The provisions of this
20 subsection shall not prohibit persons under twenty-one (21) years of
21 age from entering or remaining in an area which has as its main
22 purpose some objective other than the sale or serving of low-point
23 beer, in which sales or serving of said beverages are incidental to
24 the main purpose, if the persons under twenty-one (21) years of age

1 are not sold or served or do not consume low-point beer anywhere on
2 the premises; however, the incidental service of food in the bar
3 area shall not exempt persons under twenty-one (21) years of age
4 from the provisions of this subsection. Any person convicted of
5 violating the provisions of this subsection shall be guilty of a
6 misdemeanor and punished by a fine not to exceed One Hundred Dollars
7 (\$100.00).

8 In addition, if the person has an Oklahoma driver license issued
9 by the Department of Public Safety, that license shall be revoked
10 for the period of time provided in Section 6-107.1 of Title 47 of
11 the Oklahoma Statutes. If the person does not have an Oklahoma
12 driver license, the person shall be ineligible to obtain an Oklahoma
13 driver license for the period of time provided in Section 6-107.1 of
14 Title 47 of the Oklahoma Statutes.

15 C. Except as otherwise provided, an admission charge shall not
16 be considered in any calculation designed to determine the main
17 purpose of an area pursuant to subsection B of this section. For
18 purposes of this section, an "admission charge" shall mean any form
19 of consideration received by an establishment from a person in order
20 for that person to gain entry into the establishment or an area
21 thereof.

22 D. The provisions of subsection C of this section shall not
23 apply:
24

1 1. If only persons eighteen (18) years of age or older are
2 permitted to enter the licensed premises;

3 2. If the licensed premises are owned or operated by a service
4 organization or fraternal establishment which is exempt under
5 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

6 3. To a public event held in a facility owned or operated by
7 any agency, political subdivision or public trust of this state.

8 E. A violation of the provisions of this section shall not be a
9 basis for instituting juvenile proceedings to determine if a person
10 under eighteen (18) years of age is a delinquent child; however, if
11 a person under eighteen (18) years of age habitually violates the
12 provisions of this section, juvenile proceedings may be brought to
13 determine if the person is a delinquent child. A person under
14 eighteen (18) years of age who has been convicted of violating the
15 provisions of this section shall be subject to the penalty
16 provisions provided in this section.

17 F. Cities and towns may enact and municipal police officers may
18 enforce ordinances prohibiting and penalizing conduct under the
19 provisions of this section, but the provisions of the municipal
20 ordinances shall be the same as provided for in this section, and
21 the penalty provisions under such ordinances shall not be more
22 stringent than those of this section and shall be limited to the
23 provisions of Section 14-111 of Title 11 of the Oklahoma Statutes.
24

1 SECTION 11. AMENDATORY 47 O.S. 2011, Section 11-906.4,
2 is amended to read as follows:

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

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

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

14 3. Exhibits evidence of the combined influence of alcohol and
15 any other intoxicating substance.

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

22 1. For a first conviction, by:

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

- b. assignment to and completion of twenty (20) hours of community service,
- c. requiring the person to attend and complete a treatment program, or
- d. any combination of fine, community service, or treatment;

2. Upon a second conviction, by:

- a. assignment to and completion of not less than two hundred forty (240) hours of community service, and
- b. the requirement, after the conclusion of the mandatory revocation period, to install an ignition interlock device or devices, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes, for a period of not less than thirty (30) days.

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

3. Upon a third or subsequent conviction, by:

- a. assignment to and completion of not less than four hundred eighty (480) hours of community service, and

1 b. the requirement, after the conclusion of the mandatory
2 revocation period, to install an ignition interlock
3 device or devices, as provided by subparagraph n of
4 paragraph 1 of subsection A of Section 991a of Title
5 22 of the Oklahoma Statutes, for a period of not less
6 than thirty (30) days.

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

13 C. The court may assess additional community service hours in
14 lieu of any fine specified in this section.

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

17 1. Upon a first conviction:

18 a. the cancellation or denial of driving privileges as
19 ordered by the court pursuant to subsection B of
20 Section 6-107.1 of this title,

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

1 c. the continued installation of an ignition interlock
2 device or devices, at the expense of the person, as
3 provided in subsection D of Section 6-212.3 of this
4 title, after the mandatory period of cancellation,
5 denial or revocation for a period as provided in
6 paragraph 1 of subsection A of Section 6-212.3 of this
7 title;

8 2. Upon a second conviction:

9 a. the cancellation or denial of driving privileges, as
10 ordered by the court pursuant to subsection B of
11 Section 6-107.2 of this title,

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

15 c. an assessment of the person's degree of alcohol abuse,
16 in the same manner as prescribed in ~~subsection H of~~
17 ~~Section 11-902~~ Section 5 of this title act, which may
18 result in treatment as deemed appropriate by the
19 court, and

20 d. the continued installation of an ignition interlock
21 device or devices, at the expense of the person, as
22 provided in subsection D of Section 6-212.3 of this
23 title, after the mandatory period of cancellation,
24 denial or revocation for a period as provided in

1 paragraph 2 of subsection A of Section 6-212.3 of this
2 title; and

3 3. Upon a third or subsequent conviction:

4 a. the cancellation or denial of driving privileges as
5 ordered by the court pursuant to subsection B of
6 Section 6-107.2 of this title,

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

10 c. an assessment of the person's degree of alcohol abuse,
11 in the same manner as prescribed in ~~subsection H~~
12 Section 5 of Section 11-902 of this title act, which
13 may result in treatment as deemed appropriate by the
14 court, and

15 d. the continued installation of an ignition interlock
16 device or devices, at the expense of the person, as
17 provided in subsection D of Section 6-212.3 of this
18 title, after the mandatory period of cancellation,
19 denial, or revocation for a period as provided in
20 paragraph 3 of subsection A of Section 6-212.3 of this
21 title.

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

1 F. As used in this section:

2 1. The term "conviction" includes a juvenile delinquency
3 adjudication by a court; and

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

6 SECTION 12. AMENDATORY 63 O.S. 2011, Section 2-503.2, as
7 amended by Section 500, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
8 2013, Section 2-503.2), is amended to read as follows:

9 Section 2-503.2 A. 1. Every person convicted of a violation
10 of the Uniform Controlled Dangerous Substances Act or the
11 Trafficking In Illegal Drugs Act shall be assessed for each offense
12 a sum of not less than One Hundred Dollars (\$100.00) nor more than
13 Three Thousand Dollars (\$3,000.00).

14 2. The assessment shall be mandatory and in addition to and not
15 in lieu of any fines, restitution costs, other assessments, or
16 forfeitures authorized or required by law for the offense. The
17 assessment required by this section shall not be subject to any
18 order of suspension. The court shall order either a lump sum
19 payment or establish a payment schedule.

20 3. Failure of the offender to comply with the payment schedule
21 shall be considered contempt of court.

22 4. For purposes of collection, the assessment order shall not
23 expire until paid in full, nor shall the assessment order be limited
24 by the term of imprisonment prescribed by law for the offense, nor

1 by any term of imprisonment imposed against the offender, whether
2 suspended or actually served.

3 B. The assessment provided for in subsection A of this section
4 shall be collected by the court clerk as provided for collection of
5 fines and costs. When assessment payments are collected by the
6 court clerk pursuant to court order, the funds shall be forwarded to
7 the Department of Mental Health and Substance Abuse Services for
8 deposit into its Drug Abuse Education and Treatment Revolving Fund
9 created by this section.

10 C. 1. There is hereby created in the State Treasury a
11 revolving fund for the Department of Mental Health and Substance
12 Abuse Services to be designated the "Drug Abuse Education and
13 Treatment Revolving Fund". The fund shall be a continuing fund, not
14 subject to fiscal year limitations, and shall consist of assessments
15 collected pursuant to this section, court-ordered assessments
16 collected pursuant to ~~Section 11-902~~ Sections 2 and 3 of Title 47 of
17 ~~the Oklahoma Statutes~~ this act and Section 2-401 of this title, the
18 Oklahoma Drug Court Act, Section 2-2-509 of Title 10A of the
19 Oklahoma Statutes, grants, gifts and other money accruing to the
20 benefit of the fund and the Oklahoma Drug Court Act.

21 2. All monies accruing to the credit of the fund are hereby
22 appropriated and may be budgeted and expended by the Department of
23 Mental Health and Substance Abuse Services for treatment and drug
24 testing of indigent substance abusing offenders pursuant to the

1 Oklahoma Drug Court Act, Section 2-2-205 of Title 10A of the
2 Oklahoma Statutes, and Sections 2-2-506 through 2-2-509 of Title 10A
3 of the Oklahoma Statutes, for substance abuse prevention, drug
4 courts, and continuing education.

5 3. Expenditures from said fund shall be made upon warrants
6 issued by the State Treasurer against claims filed as prescribed by
7 law with the Director of the Office of Management and Enterprise
8 Services for approval and payment.

9 4. Monies expended from this fund shall not supplant other
10 local, state, or federal funds.

11 SECTION 13. This act shall become effective November 1, 2014.

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