

1 **SENATE FLOOR VERSION**

2 April 4, 2013

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 1441

By: Turner and Derby of the  
House

and

Standridge of the Senate

6  
7  
8  
9 An Act relating to motor vehicles; amending 47 O.S.  
10 2011, Section 6-205.1, which relates to driver  
11 license revocation and denial of driving privileges;  
12 prohibiting modification of certain revocation  
13 period; amending 47 O.S. 2011, Section 6-212.3, as  
14 amended by Section 6, Chapter 283, O.S.L. 2012 (47  
15 O.S. Supp. 2012, Section 6-212.3), which relates to  
16 ignition interlock devices; modifying conditions for  
17 which certain requests shall not be accepted;  
18 amending 47 O.S. 2011, Section 11-902, as amended by  
19 Section 13, Chapter 11, O.S.L. 2012 (47 O.S. Supp.  
20 2012, Section 11-902), which relates to penalties for  
21 driving under the influence; making certain acts  
22 unlawful; amending 47 O.S. 2011, Section 754.1, as  
23 amended by Section 14, Chapter 283, O.S.L. 2012 (47  
24 O.S. Supp. 2012, Section 754.1), which relates to  
driver license modification; modifying conditions for  
which certain requests shall not be accepted; and  
providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 6-205.1, is  
amended to read as follows:

1 Section 6-205.1. A. The driving privilege of a person who is  
2 convicted of any offense as provided in paragraph 2 of subsection A  
3 of Section 6-205 of this title, or a person who has refused to  
4 submit to a test or tests as provided in Section 753 of this title,  
5 or a person whose alcohol concentration is subject to the provisions  
6 of Section 754 of this title, shall be revoked or denied by the  
7 Department of Public Safety for the following period, as applicable:

8 1. The first license revocation pursuant to paragraph 2 of  
9 subsection A of Section 6-205 of this title or to Section 753 or 754  
10 of this title shall be for one hundred eighty (180) days, which may  
11 be modified; provided, any modification under this paragraph shall  
12 apply to Class D motor vehicles only;

13 2. A revocation pursuant to paragraph 2 of subsection A of  
14 Section 6-205 of this title, or to Section 753 or 754 of this title  
15 shall be for a period of one (1) year if within ten (10) years  
16 preceding the date of arrest relating thereto, as shown by the  
17 records of the Department:

18 a. a prior revocation commenced pursuant to paragraph 2  
19 or 6 of subsection A of Section 6-205 of this title,  
20 or to Section 753 or 754 of this title, or

21 b. the record of the person reflects a prior conviction  
22 in another jurisdiction which did not result in a  
23 revocation of Oklahoma driving privileges, for a  
24 violation substantially similar to paragraph 2 of

1 subsection A of Section 6-205 of this title, and the  
2 person was not a resident or a licensee of Oklahoma at  
3 the time of the offense resulting in the conviction.  
4 Such one-year period ~~may~~ of revocation shall not be modified,  
5 ~~provided, any modification under this paragraph shall apply to Class~~  
6 ~~D motor vehicles only.~~ Provided, ~~further,~~ whether or not the person  
7 is eligible for, applies for, or is granted a modification, the  
8 person shall be required to install an ignition interlock device or  
9 devices, pursuant to Section 754.1 of this title, during the  
10 mandatory period of revocation; or

11 3. A revocation pursuant to paragraph 2 of subsection A of  
12 Section 6-205 of this title, or to Section 753 or 754 of this title  
13 shall be for a period of three (3) years if within ten (10) years  
14 preceding the date of arrest relating thereto, as shown by the  
15 records of the Department:

- 16 a. two or more prior revocations commenced pursuant to  
17 paragraph 2 or 6 of subsection A of Section 6-205 of  
18 this title, or to Section 753 or 754 of this title,  
19 b. the record of the person reflects two or more prior  
20 convictions in another jurisdiction which did not  
21 result in a revocation of Oklahoma driving privileges,  
22 for a violation substantially similar to paragraph 2  
23 of subsection A of Section 6-205 of this title, and  
24 the person was not a resident or a licensee of

1 Oklahoma at the time of the offense resulting in the  
2 conviction, or

3 c. any combination of two or more prior revocations or  
4 convictions as described in subparagraphs a and b of  
5 this paragraph.

6 Such three-year period ~~may~~ of revocation shall not be modified;  
7 ~~provided, any modification under this paragraph shall apply to Class~~  
8 ~~D motor vehicles only.~~ Provided, ~~further,~~ whether or not the person  
9 is eligible for, applies for, or is granted a modification, the  
10 person shall be required to install an ignition interlock device or  
11 devices, pursuant to Section 754.1 of this title, during the  
12 mandatory period of revocation.

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

17 1. The first license revocation shall be for one hundred eighty  
18 (180) days, which may be modified; provided, for license revocations  
19 for a misdemeanor charge of possessing a controlled dangerous  
20 substance, the provisions of this paragraph shall apply to any such  
21 revocations by the Department on or after January 1, 1993; provided  
22 further, any modification under this paragraph shall apply to Class  
23 D motor vehicles only;

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

4           a. a prior revocation commenced pursuant to paragraph 2  
5 or 6 of subsection A of Section 6-205 of this title,  
6 or under Section 753 or 754 of this title, or

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

14 Such period shall not be modified; or

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

18           a. two or more prior revocations commenced pursuant to  
19 paragraph 2 or 6 of subsection A of Section 6-205 of  
20 this title, or under Section 753 or 754 of this title,

21           b. the record of the person reflects two or more prior  
22 convictions in another jurisdiction which did not  
23 result in a revocation of Oklahoma driving privileges,  
24 for a violation substantially similar to paragraph 2

1 or 6 of subsection A of Section 6-205 of this title,  
2 and the person was not a resident or licensee of  
3 Oklahoma at the time of the offense resulting in the  
4 conviction, or

- 5 c. any combination of two or more prior revocations as  
6 described in subparagraphs a and b or this paragraph.

7 Such period shall not be modified.

8 The revocation of the driving privilege of any person under this  
9 subsection shall not run concurrently with any other withdrawal of  
10 driving privilege resulting from a different incident and which  
11 requires the driving privilege to be withdrawn for a prescribed  
12 amount of time. A denial based on a conviction of any offense as  
13 provided in paragraph 6 of subsection A of Section 6-205 of this  
14 title shall become effective on the first day the convicted person  
15 is otherwise eligible to apply for and be granted driving privilege  
16 if the person was not eligible to do so at the time of the  
17 conviction.

18 C. For the purposes of this subsection:

19 1. The term "conviction" includes a juvenile delinquency  
20 adjudication by a court or any notification from a court pursuant to  
21 Section 6-107.1 of this title; and

22 2. The term "revocation" includes a denial of driving  
23 privileges by the Department.  
24

1 D. Each period of revocation not subject to modification shall  
2 be mandatory and neither the Department nor any court shall grant  
3 driving privileges based upon hardship or otherwise for the duration  
4 of that period. Each period of revocation, subject to modification  
5 as provided for in this section, may be modified as provided for in  
6 Section 754.1 or 755 of this title; provided, any modification under  
7 this paragraph shall apply to Class D motor vehicles only.

8 E. Any appeal of a revocation or denial of driving privileges  
9 shall be governed by Section 6-211 of this title.

10 SECTION 2. AMENDATORY 47 O.S. 2011, Section 6-212.3, as  
11 amended by Section 6, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012,  
12 Section 6-212.3), is amended to read as follows:

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

21 1. For a first revocation and if the person refused to submit  
22 to a test or tests, or had a blood or breath alcohol concentration  
23 of fifteen hundredths (0.15) or more, for a period of one and one-  
24 half (1 1/2) years following the mandatory period of revocation or

1 until the driving privileges of the person are reinstated, whichever  
2 is longer;

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

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

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

20 C. The Department shall require, as a condition of  
21 reinstatement, the device to be installed upon any vehicle owned or  
22 leased, as reflected on the vehicle registration, by an employer of  
23 the person for use by the person, except when the employer requests  
24 the ignition interlock device not be installed. The request shall

1 be in writing and notarized on the official letterhead of the  
2 employer and provided by the person to the Department; provided, a  
3 request shall not be accepted by the Department under the following  
4 circumstances:

5 1. When the person is self-employed or owns part or all of the  
6 company or corporation, or exercises control over some part of the  
7 business which owns or leases the vehicle; ~~or~~

8 2. When the person is employed by a relative who is within the  
9 first degree of consanguinity or who resides in the same household;  
10 or

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

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

16 D. 1. The requirements of subsection A or B, as applicable, of  
17 this section shall be a prerequisite and condition for reinstatement  
18 of driving privileges, in addition to other conditions for driving  
19 privilege reinstatement provided by law or by rule of the  
20 Department. Upon request and eligibility, the Department shall  
21 issue a restricted driver license to the person, upon payment of a  
22 restricted driver license fee of Fifty Dollars (\$50.00) and all  
23 other appropriate fees by the person. The restricted driver license  
24 and the driving record of the person shall indicate by an

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

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

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

20       E. Installation of an ignition interlock device pursuant to  
21 subsection A or B of this section shall run concurrently with a  
22 court order, if any, for installation of an ignition interlock  
23 device, or devices pursuant to the same conviction.

24

1 F. The person shall pay the monthly maintenance fee, not to  
2 exceed Twenty-five Dollars (\$25.00) per month, for each ignition  
3 interlock device installed pursuant to this section. The person  
4 shall comply with all provisions of law regarding ignition interlock  
5 devices.

6 G. The ignition interlock device provider shall make available  
7 to the Department regular reports of violations, if any, for each  
8 ignition interlock device installed pursuant to this section.

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

13 I. The Department shall promulgate rules necessary to implement  
14 and administer this section.

15 SECTION 3. AMENDATORY 47 O.S. 2011, Section 11-902, as  
16 amended by Section 13, Chapter 11, O.S.L. 2012 (47 O.S. Supp. 2012,  
17 Section 11-902), is amended to read as follows:

18 Section 11-902. A. It is unlawful and punishable as provided  
19 in this section for any person to drive, operate, or be in actual  
20 physical control of a motor vehicle within this state, whether upon  
21 public roads, highways, streets, turnpikes, other public places or  
22 upon any private road, street, alley or lane which provides access  
23 to one or more single or multi-family dwellings, who:

24

- 1           1. Has a blood or breath alcohol concentration, as defined in  
2 Section 756 of this title, of eight-hundredths (0.08) or more at the  
3 time of a test of such person's blood or breath administered within  
4 two (2) hours after the arrest of such person;
- 5           2. Is under the influence of alcohol;
- 6           3. Has any amount of a Schedule I chemical or controlled  
7 substance, as defined in Section 2-204 of Title 63 of the Oklahoma  
8 Statutes, or one of its metabolites or analogs in the person's  
9 blood, saliva, urine or any other bodily fluid at the time of a test  
10 of such person's blood, saliva, urine or any other bodily fluid  
11 administered within two (2) hours after the arrest of such person;
- 12           4. Has any amount of a Schedule II, III or IV chemical or  
13 controlled substance, as defined in Section 2-206, 2-208 or 2-210 of  
14 Title 63 of the Oklahoma Statutes, or one of its metabolites or  
15 analogues in the person's blood, saliva, urine or any other bodily  
16 fluid at the time of a test of such person's blood, saliva, urine or  
17 any other bodily fluid administered within two (2) hours after the  
18 arrest of such person. The fact that a person charged with  
19 violating this provision consumed the controlled substance pursuant  
20 to a prescription issued by a licensed health professional  
21 authorized to prescribe controlled substances and injected, ingested  
22 or inhaled the controlled substance in accordance with the  
23 directions of the health professional may constitute an absolute,  
24 affirmative defense against any charge of violating this paragraph

1 related to that particular controlled substance, but shall not  
2 constitute a defense to any other substance or any other paragraph  
3 under this subsection;

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

7 ~~4.~~ 6. Is under the combined influence of alcohol and any other  
8 intoxicating substance which may render such person incapable of  
9 safely driving or operating a motor vehicle.

10 B. ~~The~~ With the exception of paragraph 4 of subsection A of  
11 this section, the fact that any person charged with a violation of  
12 this section is or has been lawfully entitled to use alcohol ~~or,~~ a  
13 controlled dangerous substance, controlled substance or any other  
14 intoxicating substance shall not constitute a defense against any  
15 charge of violating this section.

16 C. 1. Any person who is convicted of a violation of the  
17 provisions of this section shall be guilty of a misdemeanor for the  
18 first offense and shall:

- 19 a. participate in an assessment and evaluation pursuant  
20 to subsection G of this section and shall follow all  
21 recommendations made in the assessment and evaluation,
- 22 b. be punished by imprisonment in jail for not less than  
23 ten (10) days nor more than one (1) year, and

24

1 c. be fined not more than One Thousand Dollars  
2 (\$1,000.00).

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

- 20 a. follow all recommendations made in the assessment and  
21 evaluation for treatment at the defendant's expense,  
22 or  
23 b. placement in the custody of the Department of  
24 Corrections for not less than one (1) year and not to

1 exceed five (5) years and a fine of not more than Two  
2 Thousand Five Hundred Dollars (\$2,500.00), or

3 c. treatment, imprisonment and a fine within the  
4 limitations prescribed in subparagraphs a and b of  
5 this paragraph.

6 However, if the treatment in subsection G of this section does  
7 not include residential or inpatient treatment for a period of not  
8 less than five (5) days, the person shall serve a term of  
9 imprisonment of at least five (5) days.

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

18 a. follow all recommendations made in the assessment and  
19 evaluation for treatment at the defendant's expense,  
20 two hundred forty (240) 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, or  
24

- 1           b. placement in the custody of the Department of  
2           Corrections for not less than one (1) year and not to  
3           exceed ten (10) years and a fine of not more than Five  
4           Thousand Dollars (\$5,000.00), 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 subsection G of this section does  
9           not include residential or inpatient treatment for a period of not  
10          less than ten (10) days, the person shall serve a term of  
11          imprisonment of at least ten (10) days.

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

- 20           a. follow all recommendations made in the assessment and  
21           evaluation for treatment at the defendant's expense,  
22           followed by not less than one (1) year of supervision  
23           and periodic testing at the defendant's expense, four  
24           hundred eighty (480) hours of community service, and

1 use of an ignition interlock device, as provided by  
2 subparagraph n of paragraph 1 of subsection A of  
3 Section 991a of Title 22 of the Oklahoma Statutes, for  
4 a minimum of thirty (30) days, 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 subsection G of this section the person shall  
14 serve a term of imprisonment of at least ten (10) days.

15 5. Any person who, after a previous conviction of a violation  
16 of murder in the second degree or manslaughter in the first degree  
17 in which the death was caused as a result of driving under the  
18 influence of alcohol or other intoxicating substance, is convicted  
19 of a violation of this section shall be guilty of a felony and shall  
20 be punished by imprisonment in the custody of the Department of  
21 Corrections for not less than five (5) years and not to exceed  
22 twenty (20) years, and a fine of not more than Ten Thousand Dollars  
23 (\$10,000.00).

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

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

12       D. Any person who is convicted of a violation of driving under  
13 the influence with a blood or breath alcohol concentration of  
14 fifteen-hundredths (0.15) or more pursuant to this section shall be  
15 deemed guilty of aggravated driving under the influence. A person  
16 convicted of aggravated driving under the influence shall  
17 participate in an assessment and evaluation pursuant to subsection G  
18 of this section and shall comply with all recommendations for  
19 treatment. Such person shall be sentenced to:

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

22       2. An ignition interlock device or devices, as provided by  
23 subparagraph n of paragraph 1 of subsection A of Section 991a of  
24

1 Title 22 of the Oklahoma Statutes, for a minimum of ninety (90)  
2 days.

3 Nothing in this subsection shall preclude the defendant from  
4 being charged or punished as provided in paragraph 1, 2, 3, 4 or 5  
5 of subsection C of this section. Any person who is convicted  
6 pursuant to the provisions of this subsection shall be guilty of a  
7 misdemeanor for a first offense and shall be punished as provided in  
8 paragraph 1 of subsection C of this section. Any person who, during  
9 the period of any court-imposed probationary term or within ten (10)  
10 years of the completion of the execution of any sentence or deferred  
11 judgment, commits a second violation of this subsection shall, upon  
12 conviction, be guilty of a felony and shall be punished as provided  
13 in paragraph 2 of subsection C of this section. Any person who  
14 commits a second felony offense pursuant to this subsection shall,  
15 upon conviction, be guilty of a felony and shall be punished as  
16 provided in paragraph 3 of subsection C of this section. Any person  
17 who commits a third or subsequent felony offense pursuant to the  
18 provisions of this subsection shall, upon conviction, be guilty of a  
19 felony and shall be punished as provided in paragraph 4 of  
20 subsection C of this section.

21 E. When a person is sentenced to imprisonment in the custody of  
22 the Department of Corrections, the person shall be processed through  
23 the Lexington Assessment and Reception Center or at a place  
24 determined by the Director of the Department of Corrections. The

1 Department of Corrections shall classify and assign the person to  
2 one or more of the following:

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

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

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

12 G. Any person who is found guilty of a violation of the  
13 provisions of this section shall be ordered to participate in an  
14 alcohol and drug substance abuse evaluation and assessment program  
15 offered by a certified assessment agency or certified assessor for  
16 the purpose of evaluating and assessing the receptivity to treatment  
17 and prognosis of the person and shall, at the expense of the  
18 defendant, follow all recommendations made in the assessment and  
19 evaluation for treatment. The court shall order the person to  
20 reimburse the agency or assessor for the evaluation and assessment.  
21 The fee for an evaluation and assessment shall be the amount  
22 provided in subsection C of Section 3-460 of Title 43A of the  
23 Oklahoma Statutes. The evaluation and assessment shall be conducted  
24 at a certified assessment agency, the office of a certified assessor

1 or at another location as ordered by the court. The agency or  
2 assessor shall, within seventy-two (72) hours from the time the  
3 person is evaluated and assessed, submit a written report to the  
4 court for the purpose of assisting the court in its sentencing  
5 determination. The court shall, as a condition of any sentence  
6 imposed, including deferred and suspended sentences, require the  
7 person to participate in and successfully complete all  
8 recommendations from the evaluation, such as an alcohol and  
9 substance abuse treatment program pursuant to Section 3-452 of Title  
10 43A of the Oklahoma Statutes. If such report indicates that the  
11 evaluation and assessment shows that the defendant would benefit  
12 from a ten-hour or twenty-four-hour alcohol and drug substance abuse  
13 course or a treatment program or both, the court shall, as a  
14 condition of any sentence imposed, including deferred and suspended  
15 sentences, require the person to follow all recommendations  
16 identified by the evaluation and assessment and ordered by the  
17 court. No person, agency or facility operating an evaluation and  
18 assessment program certified by the Department of Mental Health and  
19 Substance Abuse Services shall solicit or refer any person evaluated  
20 and assessed pursuant to this section for any treatment program or  
21 substance abuse service in which such person, agency or facility has  
22 a vested interest; however, this provision shall not be construed to  
23 prohibit the court from ordering participation in or any person from  
24 voluntarily utilizing a treatment program or substance abuse service

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

21 H. Any person who is found guilty of a violation of the  
22 provisions of this section may be required by the court to attend a  
23 victims impact panel program, if such a program is offered in the  
24 county where the judgment is rendered, and to pay a fee, not less

1 than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars  
2 (\$25.00) as set by the governing authority of the program and  
3 approved by the court, to the program to offset the cost of  
4 participation by the defendant, if in the opinion of the court the  
5 defendant has the ability to pay such fee.

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

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

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

20 L. 1. When a person is eighteen (18) years of age or older,  
21 and is the driver, operator, or person in physical control of a  
22 vehicle, and is convicted of violating any provision of this section  
23 while transporting or having in the motor vehicle any child less  
24 than eighteen (18) years of age, the fine shall be enhanced to

1 double the amount of the fine imposed for the underlying driving  
2 under the influence (DUI) violation which shall be in addition to  
3 any other penalties allowed by this section.

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

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

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

22 1. The results of any standardized field sobriety test  
23 including, but not limited to, the horizontal gaze nystagmus (HGN)

24

1 test administered by a person who has completed training in  
2 standardized field sobriety testing; or

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

9 SECTION 4. AMENDATORY 47 O.S. 2011, Section 754.1, as  
10 amended by Section 14, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012,  
11 Section 754.1), is amended to read as follows:

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

21 B. As a prerequisite and condition of any modification, the  
22 person shall be required to have installed an ignition interlock  
23 device approved by the Board of Tests for Alcohol and Drug  
24 Influence, at the person's own expense, upon every motor vehicle

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

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

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

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

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

21 C. Upon the issuance of a modification order pursuant to this  
22 section or Section 755 of this title, or under the provisions of  
23 paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of  
24 subsection B of Section 6-205.1 of this title, for a violation of

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

13 D. The Board of Tests for Alcohol and Drug Influence shall  
14 promulgate such rules as are necessary to implement and administer  
15 the provisions of this subsection relating to ignition interlock  
16 devices and the providers of such devices.

17 SECTION 5. This act shall become effective November 1, 2013.

18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY  
19 April 4, 2013 - DO PASS AS AMENDED  
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22  
23  
24