

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3146 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Mike Sanders

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

PROPOSED COMMITTEE
SUBSTITUTE

FOR

HOUSE BILL NO. 3146

By: Sanders

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; creating the Impaired Driving Elimination Act (IDEA); amending 47 O.S. 2011, Sections 11-902, as last amended by Section 3, Chapter 393, O.S.L. 2013 and 11-906.4 (47 O.S. Supp. 2014, Section 11-902), which relate to driving under the influence of alcohol; requiring percentage of fines be disbursed to certain entities or funds; prohibiting courts from waiving fines; providing an exception; amending 47 O.S. 2011, Section 761, which relates to driving while impaired; requiring percentage of fines be disbursed to certain entities or funds; prohibiting courts from waiving fines; providing an exception; providing for the preemption of certain laws of municipalities and political subdivisions; prohibiting municipalities and political subdivisions from prosecuting certain ordinances; providing an exception to mandatory preemption; providing for the establishment of municipal criminal courts of record; authorizing Commissioner of the Department of Public Safety to oversee creation of certain database; providing for assistance from the Office of Management and Enterprise Services; providing for codification; providing for noncodification; and providing an effective date.

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

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

3 This act shall be known and may be cited as the "Impaired
4 Driving Elimination Act" (IDEA).

5 SECTION 2. AMENDATORY 47 O.S. 2011, Section 11-902, as
6 last amended by Section 3, Chapter 393, O.S.L. 2013 (47 O.S. Supp.
7 2014, Section 11-902), is amended to read as follows:

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

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

18 2. Is under the influence of alcohol;

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

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 G 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
2 not include residential or inpatient treatment for a period of not
3 less than five (5) days, the person shall serve a term of
4 imprisonment of 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

1 c. 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 G of this section does
5 not include residential or inpatient treatment for a period of not
6 less than ten (10) days, the person shall serve a term of
7 imprisonment of 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 c. 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 G 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).
24

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
23 being charged or punished as provided in paragraph 1, 2, 3, 4 or 5
24 of subsection C of this section. Any person who is convicted

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

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

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

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 0. All monies received from fines for violations of the
12 provisions of this section, when collected by the court clerk, shall
13 be deposited by such court clerk as follows:

14 1. Fifty percent (50%) thereof to the District Attorneys
15 Council Revolving Fund to defray the costs of prosecution;

16 2. Twenty-five percent (25%) thereof to the arresting agency to
17 defray the costs of enforcing laws relating to driving under the
18 influence of alcohol or other intoxicating substance;

19 3. Fifteen percent (15%) thereof to the court fund; and

20 4. Ten percent (10%) thereof to the court clerk.

21 P. The court shall not have the discretion to waive any fine in
22 its entirety that is prescribed as punishment for violating the
23 provisions of this section. However, if the court determines that a
24 reduction of the fine is warranted, the court shall equally apply

1 the same percentage reduction to the fine, costs and any other fees
2 assessed in the criminal case.

3 SECTION 3. AMENDATORY 47 O.S. 2011, Section 11-906.4, is
4 amended to read as follows:

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

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

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

16 3. Exhibits evidence of the combined influence of alcohol and
17 any other intoxicating substance.

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

24 1. For a first conviction, by:

- a. a fine of not less than One Hundred Dollars (\$100.00) 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
- 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 third or subsequent conviction may be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00), 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.

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

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

1. Upon a first conviction:

- a. the cancellation or denial of driving privileges as ordered by the court pursuant to subsection B of Section 6-107.1 of this title,
- b. the mandatory revocation of driving privileges pursuant to Section 6-205.1, 753 or 754 of this title,

1 which revocation period may be modified as provided by
2 law, and

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

10 2. Upon a second conviction:

- 11 a. the cancellation or denial of driving privileges, as
12 ordered by the court pursuant to subsection B of
13 Section 6-107.2 of this title,
14 b. the mandatory revocation of driving privileges
15 pursuant to Section 6-205.1, 753 or 754 of this title,
16 which period may be modified as provided by law,
17 c. an assessment of the person's degree of alcohol abuse,
18 in the same manner as prescribed in subsection H of
19 Section 11-902 of this title, which may result in
20 treatment as deemed appropriate by the court, and
21 d. the continued installation of an ignition interlock
22 device or devices, at the expense of the person, as
23 provided in subsection D of Section 6-212.3 of this
24 title, after the mandatory period of cancellation,

1 denial or revocation for a period as provided in
2 paragraph 2 of subsection A of Section 6-212.3 of this
3 title; and

4 3. Upon a third or subsequent conviction:

- 5 a. the cancellation or denial of driving privileges as
6 ordered by the court pursuant to subsection B of
7 Section 6-107.2 of this title,
- 8 b. the mandatory revocation of driving privileges
9 pursuant to Section 6-205.1, 753 or 754 of this title,
10 which period may be modified as provided by law,
- 11 c. an assessment of the person's degree of alcohol abuse,
12 in the same manner as prescribed in subsection H of
13 Section 11-902 of this title, which may result in
14 treatment as deemed appropriate by the 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.

F. As used in this section:

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

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

G. All monies received from fines for violations of the provisions of this section, when collected by the court clerk, shall be deposited by such court clerk as follows:

1. Fifty percent (50%) thereof to the District Attorneys Council Revolving Fund to defray the costs of prosecution;

2. Twenty-five percent (25%) thereof to the arresting agency to defray the costs of enforcing laws relating to driving under the influence of alcohol or other intoxicating substance;

3. Fifteen percent (15%) thereof to the court fund; and

4. Ten percent (10%) thereof to the court clerk.

H. The court shall not have the discretion to waive any fine in its entirety that is prescribed as punishment for violating the provisions of this section. However, if the court determines that a reduction of the fine is warranted, the court shall equally apply the same percentage reduction to the fine, costs and any other fees assessed in the criminal case.

SECTION 4. AMENDATORY 47 O.S. 2011, Section 761, is amended to read as follows:

1 Section 761. A. Any person who operates a motor vehicle while
2 his ability to operate such motor vehicle is impaired by the
3 consumption of alcohol, or any other substance, other than alcohol,
4 which is capable of being ingested, inhaled, injected or absorbed
5 into the human body and is capable of adversely affecting the
6 central nervous system, vision, hearing or other sensory or motor
7 functions shall be subject to a fine of not less than One Hundred
8 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or
9 imprisonment in the county jail for not more than six (6) months, or
10 by both such fine and imprisonment.

11 B. Upon the receipt of any person's record of conviction of
12 driving while impaired, when such conviction has become final, the
13 Department of Public Safety shall suspend the driving privilege of
14 such person, as follows:

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

16 2. The second suspension shall be for a period of six (6)
17 months, which may be modified; provided, any modification under this
18 paragraph shall apply to Class D motor vehicles only; and

19 3. The third or subsequent suspension shall be for twelve (12)
20 months, which may be modified; provided, any modification under this
21 paragraph shall apply to Class D motor vehicles only.

22 Provided, however, the Department shall not suspend such
23 privilege pursuant to this subsection if said person's driving
24 privilege has been revoked based upon a test result or test refusal

1 pursuant to Section 753 or Section 754 of this title arising from
2 the same circumstances which resulted in the conviction.

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

5 D. Any person who is found guilty of a violation of the
6 provisions of this section or pleading guilty or nolo contendere for
7 a violation of any provision of this section shall be ordered to
8 participate in, prior to sentencing, an alcohol and drug assessment
9 and evaluation by an assessment agency or assessment personnel
10 certified by the Department of Mental Health and Substance Abuse
11 Services for the purpose of evaluating the receptivity to treatment
12 and prognosis of the person. The court shall order the person to
13 reimburse the agency or assessor for the assessment and evaluation.
14 The fee for an assessment and evaluation shall be the amount
15 provided in subsection C of Section 3-460 of Title 43A of the
16 Oklahoma Statutes. The evaluation shall be conducted at a certified
17 assessment agency, the office of a certified assessor or at another
18 location as ordered by the court. The agency or assessor shall,
19 within seventy-two (72) hours from the time the person is assessed,
20 submit a written report to the court for the purpose of assisting
21 the court in its final sentencing determination. If such report
22 indicates that the evaluation shows that the defendant would benefit
23 from a ten-hour or twenty-four-hour alcohol and drug substance abuse
24 course or a treatment program or both, the court shall, as a

1 condition of any sentence imposed, including a deferred sentence and
2 a suspended sentence, require the person to follow all
3 recommendations identified by the assessment and evaluation and
4 ordered by the court. No person, agency or facility operating an
5 alcohol and drug substance abuse evaluation program certified by the
6 Department of Mental Health and Substance Abuse Services shall
7 solicit or refer any person evaluated pursuant to this section for
8 any treatment program or alcohol and drug substance abuse service in
9 which such person, agency or facility has a vested interest;
10 however, this provision shall not be construed to prohibit the court
11 from ordering participation in or any person from voluntarily
12 utilizing a treatment program or alcohol and drug substance abuse
13 service offered by such person, agency or facility. Any evaluation
14 report submitted to the court pursuant to this subsection shall be
15 handled in a manner which will keep such report confidential from
16 the general public's review. Nothing contained in this subsection
17 shall be construed to prohibit the court from ordering judgment and
18 sentence and any other sanction authorized by law for failure or
19 refusal to comply with an order of the court.

20 E. All monies received from fines for violations of the
21 provisions of this section, when collected by the court clerk, shall
22 be deposited by such court clerk as follows:

23 1. Fifty percent (50%) thereof to the District Attorneys
24 Council Revolving Fund to defray the costs of prosecution;

1 2. Twenty-five percent (25%) thereof to the arresting agency to
2 defray the costs of enforcing laws relating to driving under the
3 influence of alcohol or other intoxicating substance;

4 3. Fifteen percent (15%) thereof to the court fund; and

5 4. Ten percent (10%) thereof to the court clerk.

6 F. The court shall not have the discretion to waive any fine in
7 its entirety that is prescribed as punishment for violating the
8 provisions of this section. However, if the court determines that a
9 reduction of the fine is warranted, the court shall equally apply
10 the same percentage reduction to the fine, costs and any other fees
11 assessed in the criminal case.

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

15 A. The State Legislature hereby occupies and preempts the
16 entire field of legislation in this state touching in any way the
17 prosecution of offenses relating to driving under the influence of
18 alcohol or any other intoxicating substance or operating a motor
19 vehicle while impaired to the complete exclusion of any order,
20 ordinance, local legislation or regulation by any municipality or
21 other political subdivision of this state.

22 B. No municipality or other political subdivision shall
23 prosecute any laws or ordinances relating to the offense of driving
24 under the influence of alcohol or any other intoxicating substance

1 or operating a motor vehicle while impaired. Any existing or future
2 orders, ordinances, local legislation or regulations in violation of
3 this section is void and unenforceable.

4 C. The preemption provisions of this section shall not apply to
5 prosecutions in municipal criminal courts of record for offenses
6 relating to driving under the influence of alcohol or any other
7 intoxicating substance or operating a motor vehicle while impaired.
8 Nothing in this section shall prohibit a municipality from
9 establishing a municipal criminal court of record pursuant to the
10 provisions of Section 28-101 of Title 11 of the Oklahoma Statutes.

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

14 The Commissioner of the Department of Public Safety is hereby
15 authorized to oversee the creation, development and implementation
16 of a statewide impaired driver database with assistance from the
17 Office of Management and Enterprise Services subject to fiscal
18 limitations and the availability of federal funds.

19 SECTION 7. This act shall become effective November 1, 2016.
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