

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; authorizing Commissioner to prescribe certain forms; creating the Oklahoma Impaired Driver Database Revolving Fund; stating purpose of fund; providing for codification; providing for noncodification; and providing an effective date.

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

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

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

6 SECTION 2. AMENDATORY 47 O.S. 2011, Section 11-902, as
7 last amended by Section 3, Chapter 393, O.S.L. 2013 (47 O.S. Supp.
8 2014, Section 11-902), is amended to read as follows:

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

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

19 2. Is under the influence of alcohol;

20 3. Has any amount of a Schedule I chemical or controlled
21 substance, as defined in Section 2-204 of Title 63 of the Oklahoma
22 Statutes, or one of its metabolites or analogs in the person's
23 blood, saliva, urine or any other bodily fluid at the time of a test

24

1 of such person's blood, saliva, urine or any other bodily fluid
2 administered within two (2) hours after the arrest of such person;

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

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

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

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

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

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

21 b. placement in the custody of the Department of
22 Corrections for not less than one (1) year and not to
23 exceed five (5) years and a fine of not more than Two
24 Thousand Five Hundred Dollars (\$2,500.00), 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 five (5) days, the person shall serve a term of
7 imprisonment of at least five (5) days.

8 3. Any person who is convicted of a second felony offense
9 pursuant to the provisions of this section or a violation pursuant
10 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 two hundred forty (240) hours of community service and
19 use of an ignition interlock device, as provided by
20 subparagraph n of paragraph 1 of subsection A of
21 Section 991a of Title 22 of the Oklahoma Statutes, or
22 b. placement in the custody of the Department of
23 Corrections for not less than one (1) year and not to
24

1 exceed ten (10) years and a fine of not more than Five
2 Thousand Dollars (\$5,000.00), 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 ten (10) days, the person shall serve a term of
9 imprisonment of at least ten (10) days.

10 4. Any person who is convicted of a third or subsequent felony
11 offense pursuant to the provisions of this section or a violation
12 pursuant 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 followed by not less than one (1) year of supervision
21 and periodic testing at the defendant's expense, four
22 hundred eighty (480) hours of community service, and
23 use of an ignition interlock device, as provided by
24 subparagraph n of paragraph 1 of subsection A of

1 Section 991a of Title 22 of the Oklahoma Statutes, for
2 a minimum of thirty (30) days, 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 twenty (20) years and a fine of not more than
6 Five 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 person does not undergo residential or inpatient
11 treatment pursuant to subsection G of this section the person shall
12 serve a term of imprisonment of at least ten (10) days.

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

22 6. Provided, however, a conviction from another state shall not
23 be used to enhance punishment pursuant to the provisions of this
24

1 subsection if that conviction is based on a blood or breath alcohol
2 concentration of less than eight-hundredths (0.08).

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

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

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

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

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

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

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

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

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

16 G. Any person who is found guilty of a violation of the
17 provisions of this section shall be ordered to participate in an
18 alcohol and drug substance abuse evaluation and assessment program
19 offered by a certified assessment agency or certified assessor for
20 the purpose of evaluating and assessing the receptivity to treatment
21 and prognosis of the person and shall follow all recommendations
22 made in the assessment and evaluation for treatment. The court
23 shall order the person to reimburse the agency or assessor for the
24 evaluation and assessment. Payment shall be remitted by the

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

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

3 H. Any person who is found guilty of a violation of the
4 provisions of this section may be required by the court to attend a
5 victims impact panel program, as defined in subsection H of Section
6 991a of Title 22 of the Oklahoma Statutes, if such a program is
7 offered in the county where the judgment is rendered, and to pay a
8 fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty
9 Dollars (\$60.00) as set by the governing authority of the program
10 and approved by the court to the program to offset the cost of
11 participation by the defendant, if in the opinion of the court the
12 defendant has the ability to pay such fee.

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

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

21 K. When a person is found guilty of a violation of the
22 provisions of this section, the court shall order, in addition to
23 any other penalty, the defendant to pay a one-hundred-dollar
24 assessment to be deposited in the Drug Abuse Education and Treatment

1 Revolving Fund created in Section 2-503.2 of Title 63 of the
2 Oklahoma Statutes, upon collection.

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

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

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

1 N. If qualified by knowledge, skill, experience, training or
2 education, a witness shall be allowed to testify in the form of an
3 opinion or otherwise solely on the issue of impairment, but not on
4 the issue of specific alcohol concentration level, relating to the
5 following:

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

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

16 O. All monies received from fines or assessments for violations
17 of the provisions of this section, when collected by the court
18 clerk, shall be deposited by such court clerk as follows:

19 1. Forty-five percent (45%) thereof to the District Attorneys
20 Council Revolving Fund to defray the costs of prosecution;

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

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

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

2 5. Five percent thereof (5%) to the Oklahoma Impaired Driver

3 Database Revolving Fund to defray the costs of the creation,

4 implementation and maintenance of the impaired driver database.

5 P. The court shall not have the discretion to waive any fine or

6 assessment in its entirety that is prescribed as punishment for

7 violating the provisions of this section. However, if the court

8 determines that a reduction of the fine or assessment is warranted,

9 the court shall equally apply the same percentage reduction to the

10 fine or assessment, costs and any other fees assessed in the

11 criminal case.

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

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

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

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

1 3. Exhibits evidence of the combined influence of alcohol and
2 any other intoxicating substance.

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

9 1. For a first conviction, by:

- 10 a. a fine of not less than One Hundred Dollars (\$100.00)
11 nor more than Five Hundred Dollars (\$500.00),
12 b. assignment to and completion of twenty (20) hours of
13 community service,
14 c. requiring the person to attend and complete a
15 treatment program, or
16 d. any combination of fine, community service, or
17 treatment;

18 2. Upon a second conviction, by:

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

1 22 of the Oklahoma Statutes, for a period of not less
2 than thirty (30) days.

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

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

- 10 a. assignment to and completion of not less than four
11 hundred eighty (480) hours of community service, and
12 b. the requirement, after the conclusion of the mandatory
13 revocation period, to install an ignition interlock
14 device or devices, as provided by subparagraph n of
15 paragraph 1 of subsection A of Section 991a of Title
16 22 of the Oklahoma Statutes, for a period of not less
17 than thirty (30) days.

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

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

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

5 1. Upon a first conviction:

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

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

13 c. the continued installation of an ignition interlock
14 device or devices, at the expense of the person, as
15 provided in subsection D of Section 6-212.3 of this
16 title, after the mandatory period of cancellation,
17 denial or revocation for a period as provided in
18 paragraph 1 of subsection A of Section 6-212.3 of this
19 title;

20 2. Upon a second conviction:

21 a. the cancellation or denial of driving privileges, as
22 ordered by the court pursuant to subsection B of
23 Section 6-107.2 of this title,
24

- b. the mandatory revocation of driving privileges pursuant to Section 6-205.1, 753 or 754 of this title, which period may be modified as provided by law,
- c. an assessment of the person's degree of alcohol abuse, in the same manner as prescribed in subsection H of Section 11-902 of this title, which may result in treatment as deemed appropriate by the court, and
- d. the continued installation of an ignition interlock device or devices, at the expense of the person, as provided in subsection D of Section 6-212.3 of this title, after the mandatory period of cancellation, denial or revocation for a period as provided in paragraph 2 of subsection A of Section 6-212.3 of this title; and

3. Upon a third or subsequent conviction:

- a. the cancellation or denial of driving privileges as ordered by the court pursuant to subsection B of Section 6-107.2 of this title,
- b. the mandatory revocation of driving privileges pursuant to Section 6-205.1, 753 or 754 of this title, which period may be modified as provided by law,
- c. an assessment of the person's degree of alcohol abuse, in the same manner as prescribed in subsection H of

1 Section 11-902 of this title, which may result in
2 treatment as deemed appropriate by the court, and
3 d. 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 3 of subsection A of Section 6-212.3 of this
9 title.

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

13 F. As used in this section:

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

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

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

21 1. Forty-five percent (45%) thereof to the District Attorneys
22 Council Revolving Fund to defray the costs of prosecution;
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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;

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

6 5. Five percent (5%) thereof to the Oklahoma Impaired Driver
7 Database Revolving Fund to defray the costs of the creation,
8 implementation and maintenance of the impaired driver database.

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

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

18 Section 761. A. Any person who operates a motor vehicle while
19 his ability to operate such motor vehicle is impaired by the
20 consumption of alcohol, or any other substance, other than alcohol,
21 which is capable of being ingested, inhaled, injected or absorbed
22 into the human body and is capable of adversely affecting the
23 central nervous system, vision, hearing or other sensory or motor
24 functions shall be subject to a fine of not less than One Hundred

1 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or
2 imprisonment in the county jail for not more than six (6) months, or
3 by both such fine and imprisonment.

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

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

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

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

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

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

22 D. Any person who is found guilty of a violation of the
23 provisions of this section or pleading guilty or nolo contendere for
24 a violation of any provision of this section shall be ordered to

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

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

13 E. All monies received from fines or assessments for violations
14 of the provisions of this section, when collected by the court
15 clerk, shall be deposited by such court clerk as follows:

16 1. Forty-five percent (45%) thereof to the District Attorneys
17 Council Revolving Fund to defray the costs of prosecution;

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

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

22 4. Ten percent (10%) thereof to the court clerk; and
23
24

1 5. Five percent (5%) thereof to the Oklahoma Impaired Driver
2 Database Revolving Fund to defray the costs of the creation,
3 implementation and maintenance of the impaired driver database.

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

11 SECTION 5. 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 A. The State Legislature hereby occupies and preempts the
15 entire field of legislation in this state touching in any way the
16 prosecution of offenses relating to driving under the influence of
17 alcohol or any other intoxicating substance or operating a motor
18 vehicle while impaired to the complete exclusion of any order,
19 ordinance, local legislation or regulation by any municipality or
20 other political subdivision of this state.

21 B. No municipality or other political subdivision shall
22 prosecute any laws or ordinances relating to the offense of driving
23 under the influence of alcohol or any other intoxicating substance
24 or operating a motor vehicle while impaired. Any existing or future

1 orders, ordinances, local legislation or regulations in violation of
2 this section is void and unenforceable.

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

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

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

18 B. The Commissioner shall prescribe the form of the
19 investigative report required for offenses relating to driving under
20 the influence of alcohol or any other intoxicating substance or
21 operating a motor vehicle while impaired.

22 C. There is hereby created in the State Treasury a revolving
23 fund for the Department of Public Safety to be designated the
24 "Oklahoma Impaired Driver Database Revolving Fund". The fund shall

1 be a continuing fund, not subject to fiscal year limitations. All
2 monies accruing to the credit of the fund are hereby appropriated
3 and may be budgeted and expended by the Department for the exclusive
4 purpose of implementing, developing, administering and maintaining
5 an impaired driver database. Expenditures from the funds shall be
6 made upon warrants issued by the State Treasurer against claims
7 filed as prescribed by law with the Director of the Office of
8 Management and Enterprise Services for approval and payment.

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