

1 ENGROSSED HOUSE
2 BILL NO. 3146

By: Sanders, Kannady, Tadlock,
Loring, Walker, Billy and
McCullough of the House

3
4 and

5 Treat of the Senate
6
7

8 An Act relating to the offense of driving under the
9 influence of alcohol or other intoxicating
10 substances; creating the Impaired Driving Elimination
11 Act; amending 11 O.S. 2011, Section 14-111, which
12 relates to municipal ordinances; establishing an
13 assessment for violation of certain municipal
14 ordinances; remitting assessment to the Oklahoma
15 Impaired Driver Database Revolving Fund; requiring
16 certain arrest reports be completed and entered into
17 impaired driver database; amending 28 O.S. 2011,
18 Section 153, which relates to court fees in criminal
19 cases; establishing an assessment for misdemeanor and
20 felony offenses involving driving under the influence
21 of alcohol or other intoxicating substances;
22 remitting assessment to the Oklahoma Impaired Driver
23 Database Revolving Fund; amending 28 O.S. 2011,
24 Section 153.1, which relates to costs in cases
involving driving under the influence of alcohol or
other intoxicating substances; modifying dispersal of
costs charged in cases involving driving under the
influence of alcohol or other intoxicating
substances; amending 47 O.S. 2011, Section 11-902, as
last amended by Section 3, Chapter 393, O.S.L. 2013
(47 O.S. Supp. 2015, Section 11-902), which relates
to driving under the influence of alcohol; expanding
cases to be filed in district court; 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 that act does not prohibit
establishment of municipal criminal courts of record;
authorizing Commissioner of the Department of Public

1 Safety to oversee creation of certain database;
2 providing for assistance from the Office of
3 Management and Enterprise Services; requiring certain
4 arrest reports be completed and entered into impaired
5 driver database; requiring Commissioner to prescribe
6 the form and format of the impaired driver arrest
7 report; creating the Oklahoma Impaired Driver
8 Database Revolving Fund; stating purpose of fund;
9 providing for codification; providing for
10 noncodification; and providing an effective date.

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

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

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

14 SECTION 2. AMENDATORY 11 O.S. 2011, Section 14-111, is
15 amended to read as follows:

16 Section 14-111. A. The governing body of a municipality may
17 provide for enforcement of its ordinances and establish fines,
18 penalties, or imprisonment, as authorized by subsections B through D
19 of this section, for any offense in violation of its ordinances,
20 which shall be recoverable together with costs of suit. The
21 governing body may provide that any person fined for violation of a
22 municipal ordinance who is financially able but refuses or neglects
23 to pay the fine or costs may be compelled to satisfy the amount owed
24 by working on the streets, alleys, avenues, areas, and public

1 grounds of the municipality, subject to the direction of the street
2 commissioner or other proper officer, at a rate per day as the
3 governing body may prescribe by ordinance, but not less than Fifty
4 Dollars (\$50.00) per day for useful labor, until the fine or costs
5 are satisfied.

6 B. 1. Except for municipal ordinances related to prostitution
7 and as otherwise provided in this section, cities having a municipal
8 criminal court of record may enact ordinances prescribing maximum
9 fines of One Thousand Two Hundred Dollars (\$1,200.00) and costs or
10 imprisonment not exceeding six (6) months or both the fine and
11 imprisonment, but shall not have authority to enact any ordinance
12 making unlawful an act or omission declared by state statute to be
13 punishable as a felony. Cities having a municipal criminal court of
14 record may enact ordinances prescribing maximum fines of One
15 Thousand Dollars (\$1,000.00) and costs or imprisonment not exceeding
16 six (6) months or both such fine and imprisonment for violations of
17 municipal ordinances regulating the pretreatment of wastewater and
18 regulating stormwater discharges. Cities having a municipal
19 criminal court of record may enact ordinances prescribing maximum
20 fines of One Thousand Two Hundred Fifty Dollars (\$1,250.00) and
21 costs or imprisonment not exceeding six (6) months or both such fine
22 and imprisonment for alcohol-related or drug-related traffic
23 offenses. The court shall remit Fifty Dollars (\$50.00) of each
24 alcohol fine or deferral fee to a fund of the municipality that

1 shall be used to defray costs for enforcement of laws relating to
2 juvenile access to alcohol, other laws relating to alcohol and other
3 intoxicating substances, and traffic-related offenses involving
4 alcohol or other intoxicating substances. The sum of Fifteen
5 Dollars (\$15.00) shall be assessed in every case for violations of
6 municipal ordinances relating to the offense of driving under the
7 influence of alcohol or other intoxicating substance and shall be
8 remitted to the credit of the Oklahoma Impaired Driver Database
9 Revolving Fund created pursuant to Section 8 of this act.

10 2. For violations of municipal ordinances relating to
11 prostitution, including but not limited to engaging in prostitution
12 or soliciting or procuring prostitution, a municipal criminal court
13 of record may enact ordinances prescribing an imprisonment not to
14 exceed six (6) months, and fines as follows: a fine not to exceed
15 Two Thousand Five Hundred Dollars (\$2,500.00) upon the first
16 conviction for violation of any such ordinances, a fine of not more
17 than Five Thousand Dollars (\$5,000.00) upon the second conviction
18 for violation of any of such ordinances, and a fine of not more than
19 Seven Thousand Five Hundred Dollars (\$7,500.00) upon the third or
20 subsequent convictions for violation of any of such ordinances, or
21 both such fine and imprisonment as well as a term of community
22 service of not less than forty (40) nor more than eighty (80) hours.

23 C. Municipalities having a municipal court not of record may
24 enact ordinances prescribing maximum fines pursuant to the

1 provisions of this subsection. A municipal ordinance may not impose
2 a penalty, including fine or deferral fee in lieu of a fine and
3 costs, which is greater than that established by statute for the
4 same offense. The maximum fine or deferral fee in lieu of a fine
5 for traffic-related offenses relating to speeding or parking shall
6 not exceed Two Hundred Dollars (\$200.00). The maximum fine or
7 deferral fee in lieu of a fine for alcohol-related or drug-related
8 offenses shall not exceed Eight Hundred Dollars (\$800.00). For all
9 other offenses, the maximum fine or deferral fee in lieu of a fine
10 shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court
11 shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral
12 fee to a fund of the municipality that shall be used to defray costs
13 for enforcement of laws relating to juvenile access to alcohol,
14 other laws relating to alcohol and other intoxicating substances,
15 and traffic-related offenses involving alcohol or other intoxicating
16 substances. The ordinances may prescribe costs pursuant to the
17 provisions of Section 27-126 of this title or imprisonment not
18 exceeding sixty (60) days or both the fine and imprisonment;
19 provided, that municipalities having only a municipal court not of
20 record shall not have authority to enact any ordinance making
21 unlawful any act or omission declared by state statute to be
22 punishable as a felony; provided further, that municipalities having
23 a municipal court not of record may enact ordinances prescribing
24 maximum fines of One Thousand Dollars (\$1,000.00) and costs or

1 imprisonment not exceeding ninety (90) days or both such fine and
2 imprisonment for violations of municipal ordinances regulating the
3 pretreatment of wastewater and regulating stormwater discharges. If
4 imprisonment is available for the offense, then that person charged
5 shall have a right to a jury trial.

6 D. Municipalities having both municipal criminal courts of
7 record and municipal courts not of record may enact ordinances,
8 within the authority of this section, for each court.

9 E. No municipality may levy a fine or deferral fee in lieu of a
10 fine of over Fifty Dollars (\$50.00) until it has compiled and
11 published its penal ordinances as required in Sections 14-109 and
12 14-110 of this title.

13 F. No municipality may levy a fine of more than Ten Dollars
14 (\$10.00) nor court costs of more than Fifteen Dollars (\$15.00) for
15 exceeding the posted speed limit by no more than ten (10) miles per
16 hour upon any portion of the National System of Interstate and
17 Defense Highways, federal-aid primary highways, and the state
18 highway system which are located on the outskirts of any
19 municipality as determined in Section 2-117 of Title 47 of the
20 Oklahoma Statutes.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 34-108 of Title 11, unless there
23 is created a duplication in numbering, reads as follows:

24

1 In any case in which a person is arrested for driving under the
2 influence of alcohol or other intoxicating substance, an impaired
3 driver arrest report shall be completed by the municipal law
4 enforcement officer who made the arrest and shall be entered into
5 the impaired driver database created pursuant to Section 8 of this
6 act.

7 SECTION 4. AMENDATORY 28 O.S. 2011, Section 153, is
8 amended to read as follows:

9 Section 153. A. The clerks of the courts shall collect as
10 costs in every criminal case for each offense of which the defendant
11 is convicted, irrespective of whether or not the sentence is
12 deferred, the following flat charges and no more, except for
13 standing and parking violations and for charges otherwise provided
14 for by law, which fee shall cover docketing of the case, filing of
15 all papers, issuance of process, warrants, orders, and other
16 services to the date of judgment:

- 17 1. For each defendant convicted of
18 exceeding the speed limit by at least
19 one (1) mile per hour but not more
20 than ten (10) miles per hour, whether
21 charged individually or conjointly
22 with others.....\$77.00
- 23 2. For each defendant convicted of a
24 misdemeanor traffic violation other

1 than an offense provided for in
2 paragraph 1 or 5 of this subsection,
3 whether charged individually or
4 conjointly with others.....\$98.00

5 3. For each defendant convicted of a
6 misdemeanor, other than for driving
7 under the influence of alcohol or
8 other intoxicating substance or an
9 offense provided for in paragraph 1 or
10 2 of this subsection, whether charged
11 individually or conjointly with others.....\$93.00

12 4. For each defendant convicted of a
13 felony, other than for driving under
14 the influence of alcohol or other
15 intoxicating substance, whether
16 charged individually or conjointly
17 with others.....\$103.00

18 5. For each defendant convicted of the
19 misdemeanor of driving under the
20 influence of alcohol or other
21 intoxicating substance, whether charged
22 individually or conjointly with others..... \$433.00

23 6. For each defendant convicted of the
24 felony of driving under the influence

1 of alcohol or other intoxicating
2 substance, whether charged
3 individually or conjointly with others.....\$433.00
4 7. For the services of a court reporter at
5 each preliminary hearing and trial
6 held in the case.....\$20.00
7 8. For each time a jury is requested.....\$30.00
8 9. A sheriff's fee for serving or
9 endeavoring to serve each writ,
10 warrant, order, process, command, or
11 notice or pursuing any fugitive from
12 justice
13 a. within the county..... \$50.00, or
14 mileage as
15 established by the
16 Oklahoma Statutes,
17 whichever is
18 greater, or
19 b. outside of the county..... \$50.00, or
20 actual, necessary
21 expenses, whichever
22 is greater
23 10. For the services of a language interpreter, other than an
24 interpreter appointed pursuant to the provisions of the Oklahoma

1 Interpreter for the Deaf Act, at each hearing held in the case, the
2 actual cost of the interpreter.

3 B. In addition to the amount collected pursuant to paragraphs 2
4 through 6 of subsection A of this section, the sum of Six Dollars
5 (\$6.00) shall be assessed and credited to the Law Library Fund
6 pursuant to Section 1201 et seq. of Title 20 of the Oklahoma
7 Statutes.

8 C. In addition to the amount collected pursuant to subsection A
9 of this section, the sum of Ten Dollars (\$10.00) shall be assessed
10 and collected in every traffic case for each offense other than for
11 driving under the influence of alcohol or other intoxicating
12 substance; the sum of Fifteen Dollars (\$15.00) shall be assessed and
13 collected in every misdemeanor case for each offense; the sum of
14 Fifteen Dollars (\$15.00) shall be assessed and collected in every
15 misdemeanor case for each offense for driving under the influence of
16 alcohol or other intoxicating substance; the sum of Twenty-five
17 Dollars (\$25.00) shall be assessed and collected in every felony
18 case for each offense; and the sum of Twenty-five Dollars (\$25.00)
19 shall be assessed and collected in every felony case for each
20 offense for driving under the influence of alcohol or other
21 intoxicating substance.

22 D. In addition to the amounts collected pursuant to subsections
23 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
24 shall be assessed and credited to the Oklahoma Court Information

1 System Revolving Fund created pursuant to Section 1315 of Title 20
2 of the Oklahoma Statutes.

3 E. In addition to the amount collected pursuant to paragraphs 1
4 through 6 of subsection A of this section, the sum of Ten Dollars
5 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
6 Account in the county in which the conviction occurred for the
7 purpose of enhancing existing or providing additional courthouse
8 security.

9 F. In addition to the amounts collected pursuant to paragraphs
10 1 through 6 of subsection A of this section, the sum of Three
11 Dollars (\$3.00) shall be assessed and credited to the Office of the
12 Attorney General Victim Services Unit.

13 G. In addition to the amounts collected pursuant to paragraphs
14 1 through 6 of subsection A of this section, the sum of Three
15 Dollars (\$3.00) shall be assessed and credited to the Child Abuse
16 Multidisciplinary Account. This fee shall not be used for purposes
17 of hiring or employing any law enforcement officers.

18 H. In addition to the amount collected pursuant to paragraphs 5
19 and 6 of subsection A of this section, the sum of Fifteen Dollars
20 (\$15.00) shall be assessed in every misdemeanor or felony case for
21 each offense of driving under the influence of alcohol or other
22 intoxicating substance and credited to the Oklahoma Impaired Driver
23 Database Revolving Fund created pursuant to Section 8 of this act.
24

1 I. Prior to conviction, parties in criminal cases shall not be
2 required to pay, advance, or post security for the services of a
3 language interpreter or for the issuance or service of process to
4 obtain compulsory attendance of witnesses.

5 ~~I.~~ J. The amounts to be assessed as court costs upon filing of
6 a case shall be those amounts above-stated in paragraph 3 or 4 of
7 subsection A and ~~subsection~~ subsections B, C, D and E of this
8 section.

9 ~~J.~~ K. The fees collected pursuant to this section shall be
10 deposited into the court fund, except the following:

11 1. A court clerk issuing a misdemeanor warrant is entitled to
12 ten percent (10%) of the sheriff's service fee, provided for in
13 paragraph 9 of subsection A of this section, collected on a warrant
14 referred to the contractor for the misdemeanor warrant notification
15 program governed by Sections 514.4 and 514.5 of Title 19 of the
16 Oklahoma Statutes. This ten-percent sum shall be deposited into the
17 issuing Court Clerk's Revolving Fund, created pursuant to Section
18 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing
19 the warrant with the balance of the sheriff's service fee to be
20 deposited into the Sheriff's Service Fee Account, created pursuant
21 to the provisions of Section 514.1 of Title 19 of the Oklahoma
22 Statutes, of the sheriff in the county in which service is made or
23 attempted. Otherwise, the sheriff's service fee, when collected,
24 shall be deposited in its entirety into the Sheriff's Service Fee

1 Account of the sheriff in the county in which service is made or
2 attempted;

3 2. The sheriff's fee provided for in Section 153.2 of this
4 title;

5 3. The witness fees paid by the district attorney pursuant to
6 the provisions of Section 82 of this title which, if collected by
7 the court clerk, shall be transferred to the district attorney's
8 office in the county where witness attendance was required. Fees
9 transferred pursuant to this paragraph shall be deposited in the
10 district attorney's maintenance and operating expense account;

11 4. The fees provided for in subsection C of this section shall
12 be forwarded to the District Attorneys Council Revolving Fund to
13 defray the costs of prosecution; and

14 5. The following amounts of the fees provided for in paragraphs
15 2, 3, 5 and 6 of subsection A of this section, when collected, shall
16 be deposited in the Trauma Care Assistance Revolving Fund, created
17 pursuant to the provisions of Section 1-2530.9 of Title 63 of the
18 Oklahoma Statutes:

19 a. Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee
20 provided for in paragraph 2 of subsection A of this
21 section,

22 b. Ten Dollars (\$10.00) of the Ninety-three-Dollar fee
23 provided for in paragraph 3 of subsection A of this
24 section,

1 c. One Hundred Dollars (\$100.00) of the Four-Hundred-
2 Thirty-three-Dollar fee provided for in paragraph 5 of
3 subsection A of this section, and

4 d. One Hundred Dollars (\$100.00) of the Four-Hundred-
5 Thirty-three-Dollar fee provided for in paragraph 6 of
6 subsection A of this section.

7 ~~K.~~ L. Costs required to be collected pursuant to this section
8 shall not be dismissed or waived; provided, if the court determines
9 that a person needing the services of a language interpreter is
10 indigent, the court may waive all or part of the costs or require
11 the payment of costs in installments.

12 ~~L.~~ M. As used in this section, "convicted" means any final
13 adjudication of guilt, whether pursuant to a plea of guilty or nolo
14 contendere or otherwise, and any deferred judgment or suspended
15 sentence.

16 ~~M.~~ N. A court clerk may accept in payment for any fee, fine,
17 forfeiture payment, cost, penalty assessment or other charge or
18 collection to be assessed or collected by a court clerk pursuant to
19 this section a nationally recognized credit card or debit card or
20 other electronic payment method as provided in paragraph 1 of
21 subsection B of Section 151 of this title.

22 ~~N.~~ O. Upon receipt of payment of fines and costs for offenses
23 charged prior to July 1, 1992, the court clerk shall apportion and
24 pay Thirteen Dollars (\$13.00) per conviction to the court fund.

1 SECTION 5. AMENDATORY 28 O.S. 2011, Section 153.1, is
2 amended to read as follows:

3 Section 153.1 In any case in which a defendant is charged with
4 driving under the influence of alcohol or other intoxicating
5 substance within a municipality with a municipal court,~~one-half~~
6 ~~(1/2)~~:

7 1. Twenty-five percent (25%) of the costs charged in the case
8 as provided for in Section 153 of this title shall be paid to the
9 municipality ~~to be used to defer the cost of such prosecution to the~~
10 ~~municipality~~ if the arresting officer was an employee of the
11 ~~municipality's~~ law enforcement agency of the municipality; and

12 2. Twenty-five percent (25%) of the costs charged in the case
13 as provided for in Section 153 of this title shall be paid to the
14 District Attorneys Council Revolving Fund to defray the costs of
15 prosecution.

16 SECTION 6. AMENDATORY 47 O.S. 2011, Section 11-902, as
17 last amended by Section 3, Chapter 393, O.S.L. 2013 (47 O.S. Supp.
18 2015, Section 11-902), is amended to read as follows:

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

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

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

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

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

- 4 a. participate in an assessment and evaluation pursuant
5 to subsection G of this section and shall follow all
6 recommendations made in the assessment and evaluation,
- 7 b. be punished by imprisonment in jail for not less than
8 ten (10) days nor more than one (1) year, and
- 9 c. be fined not more than One Thousand Dollars
10 (\$1,000.00).

11 2. Any person who, during the period of any court-imposed
12 probationary term or within ten (10) years of the date following the
13 completion of the execution of any sentence or deferred judgment for
14 a violation of this section or a violation pursuant to the
15 provisions of any law of this state or another state prohibiting the
16 offenses provided in subsection A of this section, Section 11-904 of
17 this title or paragraph 4 of subsection A of Section 852.1 of Title
18 21 of the Oklahoma Statutes, commits a second offense pursuant to
19 the provisions of this section or has a prior conviction in a
20 municipal criminal court of record for the violation of a municipal
21 ordinance prohibiting the offense provided for in subsection A of
22 this section and within ten (10) years of the date following the
23 completion of the execution of such sentence or deferred judgment
24 commits a second offense pursuant to the provisions of this section

1 shall, upon conviction, be guilty of a felony and shall participate
2 in an assessment and evaluation pursuant to subsection G of this
3 section and shall be sentenced to:

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

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

18 3. Any person who is convicted of a second felony offense
19 pursuant to the provisions of this section or a violation pursuant
20 to the provisions of any law of this state or another state
21 prohibiting the offenses provided for in subsection A of this
22 section, Section 11-904 of this title or paragraph 4 of subsection A
23 of Section 852.1 of Title 21 of the Oklahoma Statutes shall
24

1 participate in an assessment and evaluation pursuant to subsection G
2 of this section and shall be sentenced to:

- 3 a. follow all recommendations made in the assessment and
4 evaluation for treatment at the defendant's expense,
5 two hundred forty (240) hours of community service and
6 use of an ignition interlock device, as provided by
7 subparagraph n of paragraph 1 of subsection A of
8 Section 991a of Title 22 of the Oklahoma Statutes, or
- 9 b. placement in the custody of the Department of
10 Corrections for not less than one (1) year and not to
11 exceed ten (10) years and a fine of not more than Five
12 Thousand Dollars (\$5,000.00), or
- 13 c. treatment, imprisonment and a fine within the
14 limitations prescribed in subparagraphs a and b of
15 this paragraph.

16 However, if the treatment in subsection G of this section does
17 not include residential or inpatient treatment for a period of not
18 less than ten (10) days, the person shall serve a term of
19 imprisonment of at least ten (10) days.

20 4. Any person who is convicted of a third or subsequent felony
21 offense pursuant to the provisions of this section or a violation
22 pursuant to the provisions of any law of this state or another state
23 prohibiting the offenses provided for in subsection A of this
24 section, Section 11-904 of this title or paragraph 4 of subsection A

1 of Section 852.1 of Title 21 of the Oklahoma Statutes shall
2 participate in an assessment and evaluation pursuant to subsection G
3 of this section and shall be sentenced to:

- 4 a. follow all recommendations made in the assessment and
5 evaluation for treatment at the defendant's expense,
6 followed by not less than one (1) year of supervision
7 and periodic testing at the defendant's expense, four
8 hundred eighty (480) hours of community service, and
9 use of an ignition interlock device, as provided by
10 subparagraph n of paragraph 1 of subsection A of
11 Section 991a of Title 22 of the Oklahoma Statutes, for
12 a minimum of thirty (30) days, or
- 13 b. placement in the custody of the Department of
14 Corrections for not less than one (1) year and not to
15 exceed twenty (20) years and a fine of not more than
16 Five Thousand Dollars (\$5,000.00), or
- 17 c. treatment, imprisonment and a fine within the
18 limitations prescribed in subparagraphs a and b of
19 this paragraph.

20 However, if the person does not undergo residential or inpatient
21 treatment pursuant to subsection G of this section the person shall
22 serve a term of imprisonment of at least ten (10) days.

23 5. Any person who, after a previous conviction of a violation
24 of murder in the second degree or manslaughter in the first degree

1 in which the death was caused as a result of driving under the
2 influence of alcohol or other intoxicating substance, is convicted
3 of a violation of this section shall be guilty of a felony and shall
4 be punished by imprisonment in the custody of the Department of
5 Corrections for not less than five (5) years and not to exceed
6 twenty (20) years, and a fine of not more than Ten Thousand Dollars
7 (\$10,000.00).

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

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

19 D. Any person who is convicted of a violation of driving under
20 the influence with a blood or breath alcohol concentration of
21 fifteen-hundredths (0.15) or more pursuant to this section shall be
22 deemed guilty of aggravated driving under the influence. A person
23 convicted of aggravated driving under the influence shall
24 participate in an assessment and evaluation pursuant to subsection G

1 of this section and shall comply with all recommendations for
2 treatment. Such person shall be sentenced to:

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

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

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

1 felony and shall be punished as provided in paragraph 4 of
2 subsection C of this section.

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

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

12 2. A correctional facility operated by the Department of
13 Corrections with assignment to substance abuse treatment.
14 Successful completion of a Department-of-Corrections-approved
15 substance abuse treatment program shall satisfy the recommendation
16 for a ten-hour or twenty-four-hour alcohol and drug substance abuse
17 course or treatment program or both. Successful completion of an
18 approved Department of Corrections substance abuse treatment program
19 may precede or follow the required assessment.

20 F. The Department of Public Safety is hereby authorized to
21 reinstate any suspended or revoked driving privilege when the person
22 meets the statutory requirements which affect the existing driving
23 privilege.

1 G. Any person who is found guilty of a violation of the
2 provisions of this section shall be ordered to participate in an
3 alcohol and drug substance abuse evaluation and assessment program
4 offered by a certified assessment agency or certified assessor for
5 the purpose of evaluating and assessing the receptivity to treatment
6 and prognosis of the person and shall follow all recommendations
7 made in the assessment and evaluation for treatment. The court
8 shall order the person to reimburse the agency or assessor for the
9 evaluation and assessment. Payment shall be remitted by the
10 defendant or on behalf of the defendant by any third party;
11 provided, no state-appropriated funds are utilized. The fee for an
12 evaluation and assessment shall be the amount provided in subsection
13 C of Section 3-460 of Title 43A of the Oklahoma Statutes. The
14 evaluation and assessment shall be conducted at a certified
15 assessment agency, the office of a certified assessor or at another
16 location as ordered by the court. The agency or assessor shall,
17 within seventy-two (72) hours from the time the person is evaluated
18 and assessed, submit a written report to the court for the purpose
19 of assisting the court in its sentencing determination. The court
20 shall, as a condition of any sentence imposed, including deferred
21 and suspended sentences, require the person to participate in and
22 successfully complete all recommendations from the evaluation, such
23 as an alcohol and substance abuse treatment program pursuant to
24 Section 3-452 of Title 43A of the Oklahoma Statutes. If such report

1 indicates that the evaluation and assessment shows that the
2 defendant would benefit from a ten-hour or twenty-four-hour alcohol
3 and drug substance abuse course or a treatment program or both, the
4 court shall, as a condition of any sentence imposed, including
5 deferred and suspended sentences, require the person to follow all
6 recommendations identified by the evaluation and assessment and
7 ordered by the court. No person, agency or facility operating an
8 evaluation and assessment program certified by the Department of
9 Mental Health and Substance Abuse Services shall solicit or refer
10 any person evaluated and assessed pursuant to this section for any
11 treatment program or substance abuse service in which such person,
12 agency or facility has a vested interest; however, this provision
13 shall not be construed to prohibit the court from ordering
14 participation in or any person from voluntarily utilizing a
15 treatment program or substance abuse service offered by such person,
16 agency or facility. If a person is sentenced to imprisonment in the
17 custody of the Department of Corrections and the court has received
18 a written evaluation report pursuant to the provisions of this
19 subsection, the report shall be furnished to the Department of
20 Corrections with the judgment and sentence. Any evaluation and
21 assessment report submitted to the court pursuant to the provisions
22 of this subsection shall be handled in a manner which will keep such
23 report confidential from the general public's review. Nothing
24 contained in this subsection shall be construed to prohibit the

1 court from ordering judgment and sentence in the event the defendant
2 fails or refuses to comply with an order of the court to obtain the
3 evaluation and assessment required by this subsection. If the
4 defendant fails or refuses to comply with an order of the court to
5 obtain the evaluation and assessment, the Department of Public
6 Safety shall not reinstate driving privileges until the defendant
7 has complied in full with such order. Nothing contained in this
8 subsection shall be construed to prohibit the court from ordering
9 judgment and sentence and any other sanction authorized by law for
10 failure or refusal to comply with an order of the court.

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

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

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

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

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

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

23 M. Any plea of guilty, nolo contendere or finding of guilt for
24 a violation of this section or a violation pursuant to the

1 provisions of any law of this state or another state prohibiting the
2 offenses provided for in subsection A of this section, Section 11-
3 904 of this title, or paragraph 4 of subsection A of Section 852.1
4 of Title 21 of the Oklahoma Statutes, shall constitute a conviction
5 of the offense for the purpose of this section for a period of ten
6 (10) years following the completion of any court-imposed
7 probationary term.

8 N. If qualified by knowledge, skill, experience, training or
9 education, a witness shall be allowed to testify in the form of an
10 opinion or otherwise solely on the issue of impairment, but not on
11 the issue of specific alcohol concentration level, relating to the
12 following:

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

17 2. Whether a person was under the influence of one or more
18 impairing substances and the category of such impairing substance or
19 substances. A witness who has received training and holds a current
20 certification as a drug recognition expert shall be qualified to
21 give the testimony in any case in which such testimony may be
22 relevant.

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

4 A. The State Legislature hereby occupies and preempts the
5 entire field of legislation in this state touching in any way the
6 prosecution of offenses relating to driving under the influence of
7 alcohol or any other intoxicating substance or operating a motor
8 vehicle while impaired to the complete exclusion of any order,
9 ordinance, local legislation or regulation by any municipality or
10 other political subdivision of this state.

11 B. No municipality or other political subdivision shall
12 prosecute any laws or ordinances relating to the offense of driving
13 under the influence of alcohol or any other intoxicating substance
14 or operating a motor vehicle while impaired. Any existing or future
15 orders, ordinances, local legislation or regulations in violation of
16 this section is void and unenforceable.

17 C. The preemption provisions of this section shall not apply to
18 prosecutions in municipal criminal courts of record for offenses
19 relating to driving under the influence of alcohol or any other
20 intoxicating substance or operating a motor vehicle while impaired.
21 Nothing in this section shall prohibit a municipality from
22 establishing a municipal criminal court of record pursuant to the
23 provisions of Section 28-101 of Title 11 of the Oklahoma Statutes.

1 SECTION 8. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 11-902d of Title 47, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Commissioner of the Department of Public Safety is
5 hereby authorized to oversee the creation, development and
6 implementation of a statewide impaired driver database with
7 assistance from the Office of Management and Enterprise Services
8 subject to fiscal limitations and the availability of federal funds.

9 B. In any case in which a person is arrested for driving under
10 the influence of alcohol or any other intoxicating substance, an
11 impaired driver arrest report shall be completed by the law
12 enforcement officer that made the arrest and shall be entered into
13 the impaired driver database. The Commissioner shall prescribe the
14 form and format of the impaired driver arrest report.

15 C. There is hereby created in the State Treasury a revolving
16 fund for the Department of Public Safety to be designated the
17 "Oklahoma Impaired Driver Database Revolving Fund". The fund shall
18 be a continuing fund, not subject to fiscal year limitations. All
19 monies accruing to the credit of the fund are hereby appropriated
20 and may be budgeted and expended by the Department for the exclusive
21 purpose of implementing, developing, administering and maintaining
22 an impaired driver database. Expenditures from the funds shall be
23 made upon warrants issued by the State Treasurer against claims

1 filed as prescribed by law with the Director of the Office of
2 Management and Enterprise Services for approval and payment.

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

4 Passed the House of Representatives the 7th day of March, 2016.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2016.

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Presiding Officer of the Senate

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