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AS AMENDED

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

and

Treat, Loveless, Sharp and
Brooks of the Senate

[driving under the influence of alcohol or other intoxicating substances - Impaired Driving Elimination Act - municipal ordinances - court fees in criminal cases - costs in cases involving driving under the influence of alcohol or other intoxicating substances - cases to be filed in district court - mandatory preemption - impaired driver database - Oklahoma Impaired Driver Database Revolving Fund - codification - noncodification - effective date]

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

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

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

1 Section 14-111. A. The governing body of a municipality may
2 provide for enforcement of its ordinances and establish fines,
3 penalties, or imprisonment, as authorized by subsections B through D
4 of this section, for any offense in violation of its ordinances,
5 which shall be recoverable together with costs of suit. The
6 governing body may provide that any person fined for violation of a
7 municipal ordinance who is financially able but refuses or neglects
8 to pay the fine or costs may be compelled to satisfy the amount owed
9 by working on the streets, alleys, avenues, areas, and public
10 grounds of the municipality, subject to the direction of the street
11 commissioner or other proper officer, at a rate per day as the
12 governing body may prescribe by ordinance, but not less than Fifty
13 Dollars (\$50.00) per day for useful labor, until the fine or costs
14 are satisfied.

15 B. 1. Except for municipal ordinances related to prostitution
16 and as otherwise provided in this section, cities having a municipal
17 criminal court of record may enact ordinances prescribing maximum
18 fines of One Thousand Two Hundred Dollars (\$1,200.00) and costs or
19 imprisonment not exceeding six (6) months or both the fine and
20 imprisonment, but shall not have authority to enact any ordinance
21 making unlawful an act or omission declared by state statute to be
22 punishable as a felony. Cities having a municipal criminal court of
23 record may enact ordinances prescribing maximum fines of One
24 Thousand Dollars (\$1,000.00) and costs or imprisonment not exceeding

1 six (6) months or both such fine and imprisonment for violations of
2 municipal ordinances regulating the pretreatment of wastewater and
3 regulating stormwater discharges. Cities having a municipal
4 criminal court of record may enact ordinances prescribing maximum
5 fines of One Thousand Two Hundred Fifty Dollars (\$1,250.00) and
6 costs or imprisonment not exceeding six (6) months or both such fine
7 and imprisonment for alcohol-related or drug-related traffic
8 offenses. The court shall remit Fifty Dollars (\$50.00) of each
9 alcohol fine or deferral fee to a fund of the municipality that
10 shall be used to defray costs for enforcement of laws relating to
11 juvenile access to alcohol, other laws relating to alcohol and other
12 intoxicating substances, and traffic-related offenses involving
13 alcohol or other intoxicating substances. The sum of Fifteen
14 Dollars (\$15.00) shall be assessed in every case for violations of
15 municipal ordinances relating to the offense of driving under the
16 influence of alcohol or other intoxicating substance and shall be
17 remitted to the credit of the Oklahoma Impaired Driver Database
18 Revolving Fund created pursuant to Section 8 of this act.

19 2. For violations of municipal ordinances relating to
20 prostitution, including but not limited to engaging in prostitution
21 or soliciting or procuring prostitution, a municipal criminal court
22 of record may enact ordinances prescribing an imprisonment not to
23 exceed six (6) months, and fines as follows: a fine not to exceed
24 Two Thousand Five Hundred Dollars (\$2,500.00) upon the first

1 conviction for violation of any such ordinances, a fine of not more
2 than Five Thousand Dollars (\$5,000.00) upon the second conviction
3 for violation of any of such ordinances, and a fine of not more than
4 Seven Thousand Five Hundred Dollars (\$7,500.00) upon the third or
5 subsequent convictions for violation of any of such ordinances, or
6 both such fine and imprisonment as well as a term of community
7 service of not less than forty (40) nor more than eighty (80) hours.

8 C. Municipalities having a municipal court not of record may
9 enact ordinances prescribing maximum fines pursuant to the
10 provisions of this subsection. A municipal ordinance may not impose
11 a penalty, including fine or deferral fee in lieu of a fine and
12 costs, which is greater than that established by statute for the
13 same offense. The maximum fine or deferral fee in lieu of a fine
14 for traffic-related offenses relating to speeding or parking shall
15 not exceed Two Hundred Dollars (\$200.00). The maximum fine or
16 deferral fee in lieu of a fine for alcohol-related or drug-related
17 offenses shall not exceed Eight Hundred Dollars (\$800.00). For all
18 other offenses, the maximum fine or deferral fee in lieu of a fine
19 shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court
20 shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral
21 fee to a fund of the municipality that shall be used to defray costs
22 for enforcement of laws relating to juvenile access to alcohol,
23 other laws relating to alcohol and other intoxicating substances,
24 and traffic-related offenses involving alcohol or other intoxicating

1 substances. The ordinances may prescribe costs pursuant to the
2 provisions of Section 27-126 of this title or imprisonment not
3 exceeding sixty (60) days or both the fine and imprisonment;
4 provided, that municipalities having only a municipal court not of
5 record shall not have authority to enact any ordinance making
6 unlawful any act or omission declared by state statute to be
7 punishable as a felony; provided further, that municipalities having
8 a municipal court not of record may enact ordinances prescribing
9 maximum fines of One Thousand Dollars (\$1,000.00) and costs or
10 imprisonment not exceeding ninety (90) days or both such fine and
11 imprisonment for violations of municipal ordinances regulating the
12 pretreatment of wastewater and regulating stormwater discharges. If
13 imprisonment is available for the offense, then that person charged
14 shall have a right to a jury trial.

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

18 E. No municipality may levy a fine or deferral fee in lieu of a
19 fine of over Fifty Dollars (\$50.00) until it has compiled and
20 published its penal ordinances as required in Sections 14-109 and
21 14-110 of this title.

22 F. No municipality may levy a fine of more than Ten Dollars
23 (\$10.00) nor court costs of more than Fifteen Dollars (\$15.00) for
24 exceeding the posted speed limit by no more than ten (10) miles per

1 hour upon any portion of the National System of Interstate and
2 Defense Highways, federal-aid primary highways, and the state
3 highway system which are located on the outskirts of any
4 municipality as determined in Section 2-117 of Title 47 of the
5 Oklahoma Statutes.

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

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

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

17 Section 153. A. The clerks of the courts shall collect as
18 costs in every criminal case for each offense of which the defendant
19 is convicted, irrespective of whether or not the sentence is
20 deferred, the following flat charges and no more, except for
21 standing and parking violations and for charges otherwise provided
22 for by law, which fee shall cover docketing of the case, filing of
23 all papers, issuance of process, warrants, orders, and other
24 services to the date of judgment:

1. For each defendant convicted of
exceeding the speed limit by at least
one (1) mile per hour but not more
than ten (10) miles per hour, whether
charged individually or conjointly
with others.....\$77.00
2. For each defendant convicted of a
misdemeanor traffic violation other
than an offense provided for in
paragraph 1 or 5 of this subsection,
whether charged individually or
conjointly with others.....\$98.00
3. For each defendant convicted of a
misdemeanor, other than for driving
under the influence of alcohol or
other intoxicating substance or an
offense provided for in paragraph 1 or
2 of this subsection, whether charged
individually or conjointly with others.....\$93.00
4. For each defendant convicted of a
felony, other than for driving under
the influence of alcohol or other
intoxicating substance, whether

1 charged individually or conjointly

2 with others.....\$103.00

3 5. For each defendant convicted of the

4 misdemeanor of driving under the

5 influence of alcohol or other

6 intoxicating substance, whether charged

7 individually or conjointly with others..... \$433.00

8 6. For each defendant convicted of the

9 felony of driving under the influence

10 of alcohol or other intoxicating

11 substance, whether charged

12 individually or conjointly with others.....\$433.00

13 7. For the services of a court reporter at

14 each preliminary hearing and trial

15 held in the case.....\$20.00

16 8. For each time a jury is requested.....\$30.00

17 9. A sheriff's fee for serving or

18 endeavoring to serve each writ,

19 warrant, order, process, command, or

20 notice or pursuing any fugitive from

21 justice

22 a. within the county..... \$50.00, or

23 mileage as

24 established by the

Oklahoma Statutes,
whichever is
greater, or
b. outside of the county..... \$50.00, or
actual, necessary
expenses, whichever
is greater

10. For the services of a language interpreter, other than an
interpreter appointed pursuant to the provisions of the Oklahoma
Interpreter for the Deaf Act, at each hearing held in the case, the
actual cost of the interpreter.

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

C. In addition to the amount collected pursuant to subsection A
of this section, the sum of Ten Dollars (\$10.00) shall be assessed
and collected in every traffic case for each offense other than for
driving under the influence of alcohol or other intoxicating
substance; the sum of Fifteen Dollars (\$15.00) shall be assessed and
collected in every misdemeanor case for each offense; the sum of
Fifteen Dollars (\$15.00) shall be assessed and collected in every
misdemeanor case for each offense for driving under the influence of

1 alcohol or other intoxicating substance; the sum of Twenty-five
2 Dollars (\$25.00) shall be assessed and collected in every felony
3 case for each offense; and the sum of Twenty-five Dollars (\$25.00)
4 shall be assessed and collected in every felony case for each
5 offense for driving under the influence of alcohol or other
6 intoxicating substance.

7 D. In addition to the amounts collected pursuant to subsections
8 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
9 shall be assessed and credited to the Oklahoma Court Information
10 System Revolving Fund created pursuant to Section 1315 of Title 20
11 of the Oklahoma Statutes.

12 E. In addition to the amount collected pursuant to paragraphs 1
13 through 6 of subsection A of this section, the sum of Ten Dollars
14 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
15 Account in the county in which the conviction occurred for the
16 purpose of enhancing existing or providing additional courthouse
17 security.

18 F. In addition to the amounts collected pursuant to paragraphs
19 1 through 6 of subsection A of this section, the sum of Three
20 Dollars (\$3.00) shall be assessed and credited to the Office of the
21 Attorney General Victim Services Unit.

22 G. In addition to the amounts collected pursuant to paragraphs
23 1 through 6 of subsection A of this section, the sum of Three
24 Dollars (\$3.00) shall be assessed and credited to the Child Abuse

1 Multidisciplinary Account. This fee shall not be used for purposes
2 of hiring or employing any law enforcement officers.

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

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

13 ~~F.~~ J. The amounts to be assessed as court costs upon filing of
14 a case shall be those amounts above-stated in paragraph 3 or 4 of
15 subsection A and ~~subsection~~ subsections B, C, D and E of this
16 section.

17 ~~F.~~ K. The fees collected pursuant to this section shall be
18 deposited into the court fund, except the following:

19 1. A court clerk issuing a misdemeanor warrant is entitled to
20 ten percent (10%) of the sheriff's service fee, provided for in
21 paragraph 9 of subsection A of this section, collected on a warrant
22 referred to the contractor for the misdemeanor warrant notification
23 program governed by Sections 514.4 and 514.5 of Title 19 of the
24 Oklahoma Statutes. This ten-percent sum shall be deposited into the

1 issuing Court Clerk's Revolving Fund, created pursuant to Section
2 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing
3 the warrant with the balance of the sheriff's service fee to be
4 deposited into the Sheriff's Service Fee Account, created pursuant
5 to the provisions of Section 514.1 of Title 19 of the Oklahoma
6 Statutes, of the sheriff in the county in which service is made or
7 attempted. Otherwise, the sheriff's service fee, when collected,
8 shall be deposited in its entirety into the Sheriff's Service Fee
9 Account of the sheriff in the county in which service is made or
10 attempted;

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

13 3. The witness fees paid by the district attorney pursuant to
14 the provisions of Section 82 of this title which, if collected by
15 the court clerk, shall be transferred to the district attorney's
16 office in the county where witness attendance was required. Fees
17 transferred pursuant to this paragraph shall be deposited in the
18 district attorney's maintenance and operating expense account;

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

22 5. The following amounts of the fees provided for in paragraphs
23 2, 3, 5 and 6 of subsection A of this section, when collected, shall
24 be deposited in the Trauma Care Assistance Revolving Fund, created

1 pursuant to the provisions of Section 1-2530.9 of Title 63 of the
2 Oklahoma Statutes:

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

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

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

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

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

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

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

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

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

12 Section 153.1 In any case in which a defendant is charged with
13 driving under the influence of alcohol or other intoxicating
14 substance within a municipality with a municipal court,~~one-half~~
15 ~~(1/2)~~;

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

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

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

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

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

14 2. Is under the influence of alcohol;

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

21 4. Is under the influence of any intoxicating substance other
22 than alcohol which may render such person incapable of safely
23 driving or operating a motor vehicle; or
24

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

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

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

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

19 2. Any person who, during the period of any court-imposed
20 probationary term or within ten (10) years of the date following the
21 completion of the execution of any sentence or deferred judgment for
22 a violation of this section or a violation pursuant to the
23 provisions of any law of this state or another state prohibiting the
24 offenses provided in subsection A of this section, Section 11-904 of

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

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

22 However, if the treatment in subsection G of this section does
23 not include residential or inpatient treatment for a period of not
24

1 less than five (5) days, the person shall serve a term of
2 imprisonment of at least five (5) days.

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

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

5 4. Any person who is convicted of a third or subsequent felony
6 offense pursuant to the provisions of this section or a violation
7 pursuant 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 followed by not less than one (1) year of supervision
16 and periodic testing at the defendant's expense, four
17 hundred eighty (480) hours of community service, and
18 use of an ignition interlock device, as provided by
19 subparagraph n of paragraph 1 of subsection A of
20 Section 991a of Title 22 of the Oklahoma Statutes, for
21 a minimum of thirty (30) days, 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 twenty (20) years and a fine of not more than
2 Five 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 person does not undergo residential or inpatient
7 treatment pursuant to subsection G of this section the person shall
8 serve a term of imprisonment of at least ten (10) days.

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

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

22 7. In any case in which a defendant is charged with ~~a second or~~
23 ~~subsequent~~ driving under the influence of alcohol or other
24 intoxicating substance offense within any municipality with a

1 municipal court other than a court of record, the charge shall be
2 presented to the county's district attorney and filed with the
3 district court of the county within which the municipality is
4 located.

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

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

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

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

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

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

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

22 2. A correctional facility operated by the Department of
23 Corrections with assignment to substance abuse treatment.
24 Successful completion of a Department-of-Corrections-approved

1 substance abuse treatment program shall satisfy the recommendation
2 for a ten-hour or twenty-four-hour alcohol and drug substance abuse
3 course or treatment program or both. Successful completion of an
4 approved Department of Corrections substance abuse treatment program
5 may precede or follow the required assessment.

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

10 G. Any person who is found guilty of a violation of the
11 provisions of this section shall be ordered to participate in an
12 alcohol and drug substance abuse evaluation and assessment program
13 offered by a certified assessment agency or certified assessor for
14 the purpose of evaluating and assessing the receptivity to treatment
15 and prognosis of the person and shall follow all recommendations
16 made in the assessment and evaluation for treatment. The court
17 shall order the person to reimburse the agency or assessor for the
18 evaluation and assessment. Payment shall be remitted by the
19 defendant or on behalf of the defendant by any third party;
20 provided, no state-appropriated funds are utilized. The fee for an
21 evaluation and assessment shall be the amount provided in subsection
22 C of Section 3-460 of Title 43A of the Oklahoma Statutes. The
23 evaluation and assessment shall be conducted at a certified
24 assessment agency, the office of a certified assessor or at another

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

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

20 H. Any person who is found guilty of a violation of the
21 provisions of this section may be required by the court to attend a
22 victims impact panel program, as defined in subsection H of Section
23 991a of Title 22 of the Oklahoma Statutes, if such a program is
24 offered in the county where the judgment is rendered, and to pay a

1 fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty
2 Dollars (\$60.00) as set by the governing authority of the program
3 and approved by the court to the program to offset the cost of
4 participation by the defendant, if in the opinion of the court the
5 defendant has the ability to pay such fee.

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

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

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

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

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

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

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

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

22 1. The results of any standardized field sobriety test
23 including, but not limited to, the horizontal gaze nystagmus (HGN)
24

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

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

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

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

19 B. No municipality or other political subdivision shall
20 prosecute any laws or ordinances relating to the offense of driving
21 under the influence of alcohol or any other intoxicating substance
22 or operating a motor vehicle while impaired. Any existing or future
23 orders, ordinances, local legislation or regulations in violation of
24 this section is void and unenforceable.

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

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

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

16 B. In any case in which a person is arrested for driving under
17 the influence of alcohol or any other intoxicating substance, an
18 impaired driver arrest report shall be completed by the law
19 enforcement officer that made the arrest and shall be entered into
20 the impaired driver database. The Commissioner shall prescribe the
21 form and format of the impaired driver arrest report.

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

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
11 April 6, 2016 - DO PASS AS AMENDED
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