

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1163

By: David

AS INTRODUCED

An Act relating to impaired driving; repealing 47 O.S. 2011, Section 2-116, as amended by Section 3, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017, Section 2-116), which relates to the giving of notice; directing certain delivery of notice; providing proof of notice; stating certain failure to receive notice as not sufficient grounds for invalidation; repealing 47 O.S. 2011, Section 6-212.3, as last amended by Section 8, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017, Section 6-212.3), which relates to installation of an ignition interlock device; requiring certain ignition interlock device; providing procedures for certain exception; directing certain restrictions to driving privileges; directing issuance of restricted driver license; directing deposit of fees; stating purpose of expenditure of funds; directing establishment of Impaired Driver Accountability Program; directing deposit of fees; directing promulgation of rules; authorizing certain IDAP program agreement; authorizing certain program administration fee; requiring certain verification; stating eligibility for restricted driver license; directing updated records upon completion; stating program length; directing apportionment of monies collected; repealing 47 O.S. 2011, Section 753, as last amended by Section 12, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017, Section 753), which relates to refusal to submit to test; providing for blood or breath test; authorizing acceptable manner; repealing 47 O.S. 2011, Section 754, as amended by Section 13, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017, Section 754), which relates to modification of revocation; establishing requirements for certain notice; repealing 47 O.S. 2011, Section 755, which relates to

1 chemical tests; providing for codification; and  
2 providing a provisional effective date.  
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4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. REPEALER 47 O.S. 2011, Section 2-116, as  
6 amended by Section 3, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017,  
7 Section 2-116) is hereby repealed.

8 SECTION 2. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2-116a of Title 47, unless there  
10 is created a duplication in numbering, reads as follows:

11 Whenever the Department of Public Safety is authorized or  
12 required to give any notice, unless a different method of giving  
13 such notice is otherwise expressly prescribed, or agreed upon in  
14 writing by the Department and the person receiving notice, such  
15 notice shall be given either by personal delivery thereof to the  
16 person to be so notified or by deposit in the United States mail of  
17 such notice in an envelope with first class postage prepaid,  
18 addressed to such person at the mailing address as shown by the  
19 records of the Department. The giving of notice by mail is complete  
20 upon the expiration of ten (10) days after deposit of the notice in  
21 the United States mail. Proof of the giving of notice in either  
22 such manner may be made by the certificate of any officer or  
23 employee of the Department or affidavit of any person over eighteen  
24 (18) years of age, naming the person to whom such notice was given

1 and specifying the date, place and manner of the giving of notice.  
2 Failure of the person to receive notice because of failure to notify  
3 the Department of a change in his or her current mailing address, as  
4 required by Section 6-116 of this title, or as required by the rules  
5 of the Department, shall not be sufficient grounds to invalidate the  
6 giving of notice.

7 SECTION 3. REPEALER 47 O.S. 2011, Section 6-212.3, as last  
8 amended by Section 8, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017,  
9 Section 6-212.3), is hereby repealed.

10 SECTION 4. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6-212.5 of Title 47, unless  
12 there is created a duplication in numbering, reads as follows:

13 Whenever the installation of an ignition interlock device is  
14 allowed or required by law, the Department shall require the device  
15 to be installed upon any vehicle owned or leased, as reflected on  
16 the vehicle registration or title, by an employer of the person for  
17 use by the person, except when the employer requests the ignition  
18 interlock device not be installed. The request shall be in writing  
19 and notarized on the official letterhead of the employer and  
20 provided by the employer to the Department; provided, a request  
21 shall not be accepted by the Department under the following  
22 circumstances:

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

4        2. When the person is employed by a relative who is within the  
5 first degree of consanguinity or who resides in the same household;  
6 or

7        3. When the person has had a prior revocation pursuant to  
8 paragraph 2 of subsection A of Section 4 of Enrolled Senate Bill No.  
9 \_\_\_\_\_ or as a result of a test result or a test refusal.

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

12       B. Upon receipt of a report of an interlock violation, as  
13 defined by the rules of the Board of Tests for Alcohol and Drug  
14 Influence. The Department of Public Safety may revoke, suspend or  
15 restrict the driving privileges of the person.

16       C. 1. Upon request and a determination of eligibility, the  
17 Department shall issue a restricted driver license to the person,  
18 upon payment of a restricted driver license fee of Fifty Dollars  
19 (\$50.00) and the IDAP program administration fee, as provided in  
20 Section 8 of Enrolled Senate Bill No. \_\_\_\_\_. The restricted driver  
21 license and the driving record of the person shall indicate by an  
22 appropriate restriction that the person is only authorized to  
23 operate a vehicle upon which an approved ignition interlock device  
24 is installed.

1        2. The restricted driver license fee authorized by this section  
2 shall be credited to the Department of Public Safety Restricted  
3 Revolving Fund. All monies accruing to the credit of the Department  
4 of Public Safety Restricted Revolving Fund from such driver license  
5 fees shall be budgeted and expended solely for the purpose of  
6 administering the provisions of the Impaired Driver Accountability  
7 Program.

8        SECTION 5.        NEW LAW        A new section of law to be codified  
9 in the Oklahoma Statutes as Section 6-212.6 of Title 47, unless  
10 there is created a duplication in numbering, reads as follows:

11        A. No later than November 1, 2019, the Department shall  
12 establish the Impaired Driver Accountability Program at the  
13 Department of Public Safety. Fees collected by the Department for  
14 admission into the program shall be deposited in the Department of  
15 Public Safety Restricted Revolving Fund for support of the program.  
16 The Department shall promulgate rules necessary to administer the  
17 Impaired Driver Accountability Program including, but not limited  
18 to, establishing the criteria for eligibility and successful  
19 completion of the program.

20        B. The Department may enter into an IDAP program agreement with  
21 the person if:

22        1. The Department receives the request for IDAP participation  
23 on a form designated by the Department within ten (10) calendar days  
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1 from the date that notice was given pursuant to Section 2 of this  
2 act;

3 2. The Department receives payment of the Two-Hundred-Dollar  
4 program administration fee within forty-five (45) days of the date  
5 notice was given pursuant to Section 2 of this act;

6 3. The Department receives an ignition interlock device  
7 installation verification issued in accordance with the rules of the  
8 Board of Tests for Alcohol and Drug Influence within forty-five (45)  
9 days from the date notice was given pursuant to Section 2 of this  
10 act; and

11 4. The person is eligible for an Oklahoma restricted driver  
12 license on the date the person enters into the Impaired Driver  
13 Accountability Program agreement.

14 C. Upon successful completion of the program, the records of  
15 the Department will be updated to indicate the person's completion  
16 of the program without revocation. No reinstatement fee will be  
17 charged to the person.

18 D. The program length(s) shall be:

19 1. A minimum of six (6) months for a person subject to  
20 revocation pursuant to paragraph 1 of subsection A of Section 6 of  
21 Enrolled Senate Bill No. \_\_\_\_\_. If within the last three (3) months  
22 of the program period the Department receives a report of an  
23 interlock violation, as defined by the rules of the Board of Tests  
24 for Alcohol and Drug Influence, the program period shall be extended

1 until such time that the person completes a violation-free three-  
2 month period;

3 2. A minimum of twelve (12) months for a person subject to  
4 revocation pursuant to paragraph 2 of subsection A of Section 6 of  
5 Enrolled Senate Bill No. \_\_\_\_\_. If within the last six (6) months  
6 of the program period the Department receives a report of an  
7 interlock violation as defined by the rules of the Board of Tests  
8 for Alcohol and Drug Influence, the program period shall be extended  
9 until such time that the person completes a violation-free six-month  
10 period;

11 3. A minimum of twenty-four (24) months for a person subject to  
12 revocation pursuant to paragraph 3 of subsection A of Section 6 of  
13 Enrolled Senate Bill No. \_\_\_\_\_. If within the last twelve (12)  
14 months of the program period the Department receives a report of an  
15 interlock violation, as defined by the rules of the Board of Tests  
16 for Alcohol and Drug Influence, the program period shall be extended  
17 until such time that the person completes a violation-free twelve-  
18 month period;

19 E. Completion of the program is contingent upon the person's  
20 compliance with the rules of the Department.

21 F. Effective July 1, 2002, and for each fiscal year thereafter:

22 1. Two Hundred Fifty Thousand Dollars (\$250,000.00) of all  
23 monies collected each month pursuant to this section shall be  
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1 apportioned as provided in Section 1104 of Title 47 of the Oklahoma  
2 Statutes, except as otherwise provided in this section; and

3 2. Except as otherwise provided in this section, all other  
4 monies collected in excess of Two Hundred Fifty Thousand Dollars  
5 (\$250,000.00) each month shall be deposited in the General Revenue  
6 Fund.

7 SECTION 6. REPEALER 47 O.S. 2011, Section 753, as last  
8 amended by Section 12, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017,  
9 Section 753), is hereby repealed.

10 SECTION 7. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 753a of Title 47, unless there  
12 is created a duplication in numbering, reads as follows:

13 If a conscious person under arrest refuses to submit to testing  
14 of his or her blood or breath for the purpose of determining the  
15 alcohol concentration thereof, or to a test of his or her blood,  
16 saliva or urine for the purpose of determining the presence or  
17 concentration of any other intoxicating substance, or the combined  
18 influence of alcohol and any other intoxicating substance, none  
19 shall be given except upon the issuance of a search warrant or  
20 unless the investigating officer has probable cause to believe that  
21 the person under arrest, while intoxicated, has operated the motor  
22 vehicle in such a manner as to have caused the death or serious  
23 physical injury of any other person or persons. In such event, such  
24 test otherwise authorized by law may be made in the same manner as



1 if a search warrant had been issued for such test or tests. The  
2 sample shall be taken in a medically acceptable manner as authorized  
3 by Section 752 of Title 47 of the Oklahoma Statutes.

4 SECTION 8. REPEALER 47 O.S. 2011, Section 754, as amended  
5 by Section 13, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017, Section  
6 754), is hereby repealed.

7 SECTION 9. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 754a of Title 47, unless there  
9 is created a duplication in numbering, reads as follows:

10 Any arrested person who is under twenty-one (21) years of age  
11 and has any measurable quantity of alcohol in the person's blood or  
12 breath, or any person twenty-one (21) years of age or older whose  
13 alcohol concentration is eight-hundredths (0.08) or more as shown by  
14 a breath test administered according to the provisions of this  
15 title, or any arrested person who has refused to submit to a breath  
16 or blood test, shall be issued a dated notice on a form prescribed  
17 by the Department of Public Safety. Giving of notice is effective  
18 when the notice is delivered to the arrested person, or to the  
19 custodian of the arrested person at a detention facility or to an  
20 employee of a health care provider attending to the arrested person  
21 at a medical facility. Proof of giving notice may be made by  
22 affidavit of the person giving the notice. A copy of the notice  
23 form issued to the arrested person shall be submitted to the  
24 Department within seventy-two (72) hours of being issued to the

1 arrested person. The failure of the officer to timely file this  
2 notice with the Department shall not affect the authority of the  
3 Department to revoke the driving privilege of the arrested person.

4 SECTION 10. REPEALER 47 O.S. 2011, Section 755, is  
5 hereby repealed.

6 SECTION 11. This act shall become effective November 1, 2018.

7 SECTION 12. The provisions of this act shall not become  
8 effective as law unless Enrolled Senate Bill No. \_\_\_\_\_ of the 2nd  
9 Session of the 56th Oklahoma Legislature and Enrolled Senate Bill  
10 No. \_\_\_\_\_ of the 2nd Session of the 56th Legislature becomes  
11 effective as law.

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