

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1464

By: David

AS INTRODUCED

An Act relating to impaired driving; amending 47 O.S. 2011, Section 6-205, as last amended by Section 3, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 6-205), which relates to mandatory revocation of driving privilege; modifying inclusions; amending 47 O.S. 2011, Section 6-205.1, as last amended by Section 4, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 6-205.1), which relates to period of revocations; modifying qualifiers; disallowing certain concurrent revocation; amending 47 O.S. 2011, Section 6-211, as amended by Section 5, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 6-211), which relates to the right of appeal to district court; requiring certain notice; providing for certain bond; providing for certain forfeiture of bond; directing eligible persons be restored driving privileges; directing court when certain order sustained; providing for an appealable order or judgment; amending 47 O.S. 2011, Section 6-212.3, as last amended by Section 8, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 6-212.3), which relates to ignition interlock device; providing certain time modifications; amending Section 9, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 6-212.5), which relates to the Impaired Driver Accountability Program; requiring certain restricted license; providing for certain withdrawal; allowing certain program extension; directing deposits to the Department of Public Safety's Restricted Revolving Fund; amending 47 O.S. 2011, Section 752, as last amended by Section 13, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 752), which relates to administration of tests; modifying qualified persons; modifying allowable testing elements; amending 47 O.S. 2011, Section 759, as last amended by Section 1,

Chapter 125, O.S.L. 2015 (47 O.S. Supp. 2019, Section 759), which relates to the Board of Tests for Alcohol and Drug Influence; modifying certain collection method; providing definition; updating statutory references; repealing Section 1, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 6-212.6), which relates to notice of IDAP to persons subject to license revocation; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 6-205, as last amended by Section 3, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019, Section 6-205), is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall immediately revoke the driving privilege of any person, whether adult or juvenile, upon receiving a record of conviction, in any municipal, state or federal court within the United States of any of the following offenses, when such conviction has become final:

1. Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

2. Driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, any violation of paragraph 1, 2, 3 or 4 of subsection A of Section 11-902 of this title or any violation of Section 11-906.4 of this title. However, the Department shall not additionally revoke the driving privileges of the person pursuant to

1 this subsection if the driving privilege of the person has been
2 revoked because of a test result or test refusal pursuant to Section
3 753 or 754 of this title, or has successfully completed or is
4 currently participating in the Impaired Driver Accountability
5 Program (IDAP) arising from the same circumstances which resulted in
6 the conviction unless the revocation because of a test result or
7 test refusal is set aside;

8 3. Any felony during the commission of which a motor vehicle is
9 used;

10 4. Failure to stop and render aid as required under the laws of
11 this state in the event of a motor vehicle accident resulting in the
12 death or personal injury of another;

13 5. Perjury or the making of a false affidavit or statement
14 under oath to the Department under the Uniform Vehicle Code or under
15 any other law relating to the ownership or operation of motor
16 vehicles;

17 6. A misdemeanor or felony conviction for unlawfully
18 possessing, distributing, dispensing, manufacturing, trafficking,
19 cultivating, selling, transferring, attempting or conspiring to
20 possess, distribute, dispense, manufacture, traffic, sell, or
21 transfer of a controlled dangerous substance as defined in the
22 Uniform Controlled Dangerous Substances Act while using a motor
23 vehicle;

1 7. Failure to pay for gasoline pumped into a vehicle pursuant
2 to Section 1740 of Title 21 of the Oklahoma Statutes;

3 8. A misdemeanor conviction for a violation of Section 1465 of
4 Title 21 of the Oklahoma Statutes;

5 9. A misdemeanor conviction for a violation of Section 1-229.34
6 of Title 63 of the Oklahoma Statutes;

7 10. Failure to obey a traffic control device as provided in
8 Section 11-202 of this title or a stop sign when such failure
9 results in great bodily injury to any other person; or

10 11. Failure to stop or to remain stopped for school bus loading
11 or unloading of children pursuant to Section 11-705 or 11-705.1 of
12 this title.

13 B. The first license revocation under any provision of this
14 section, except for paragraph 2, 6, 7 or 11 of subsection A of this
15 section, shall be for a period of one (1) year. Such period shall
16 not be modified.

17 C. A license revocation under any provision of this section,
18 except for paragraph 2, 6, or 7 of subsection A of this section,
19 shall be for a period of three (3) years if a prior revocation under
20 this section, except under paragraph 2 of subsection A of this
21 section, commenced within the preceding five-year period as shown by
22 the records of the Department. Such period shall not be modified.

1 D. The period of license revocation under paragraph 2 or 6 of
2 subsection A of this section shall be governed by the provisions of
3 Section 6-205.1 of this title.

4 E. The first license revocation under paragraph 7 of subsection
5 A of this section shall be for a period of six (6) months. A second
6 or subsequent license revocation under paragraph 7 of subsection A
7 of this section shall be for a period of one (1) year. Such periods
8 shall not be modified.

9 F. The first license revocation under paragraph 11 of
10 subsection A of this section shall be for a period of one (1) year.
11 Such period may be modified. Any appeal of the revocation of
12 driving privilege under paragraph 11 of subsection A of this section
13 shall be governed by Section 6-211 of this title; provided, any
14 modification under this subsection shall apply to Class D motor
15 vehicles only.

16 G. As used in this section, "great bodily injury" means bodily
17 injury which creates a substantial risk of death or which causes
18 serious, permanent disfigurement or protracted loss or impairment of
19 the function of any bodily member or organ.

20 SECTION 2. AMENDATORY 47 O.S. 2011, Section 6-205.1, as
21 last amended by Section 4, Chapter 400, O.S.L. 2019 (47 O.S. Supp.
22 2019, Section 6-205.1), is amended to read as follows:

23 Section 6-205.1. A. The driving privilege of a person who is
24 convicted of any offense as provided in paragraph 2 of subsection A
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1 of Section 6-205 of this title, or a person who has refused to
2 submit to a test or tests as provided in Section 753 of this title,
3 or a person whose alcohol concentration is subject to the provisions
4 of Section 754 of this title, unless, as a result of the same
5 incident, the person has successfully completed, or is currently
6 participating in, the Impaired Driver Accountability Program, shall
7 be revoked or denied by the Department of Public Safety for the
8 following period, as applicable:

9 1. The first license revocation pursuant to paragraph 2 of
10 subsection A of Section 6-205 of this title or Section 753 or 754 of
11 this title shall be for a period of one hundred eighty (180) days,
12 or longer if driving privileges are modified pursuant to the
13 provisions of this paragraph, which shall be modified upon request;
14 provided, any modification under this paragraph shall apply to Class
15 D driver licenses only. For any modification, the person shall be
16 required to install an ignition interlock device or devices,
17 pursuant to Section 754.1 of this title. The period of revocation
18 and the period of interlock installation shall run concurrently and
19 each shall be for no less than one hundred eighty (180) days;

20 2. A revocation pursuant to paragraph 2 of subsection A of
21 Section 6-205 of this title or Section 753 or 754 of this title
22 shall be for a period of one (1) year, or longer if driving
23 privileges are modified pursuant to the provisions of this
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1 paragraph, if within ten (10) years preceding the date of arrest
2 relating thereto, as shown by the records of the Department:

- 3 a. a prior revocation commenced pursuant to paragraph 2
4 or 6 of subsection A of Section 6-205 of this title,
5 Section 753 or 754 of this title, or current
6 enrollment in, or previous completion of the Impaired
7 Driver Accountability Program, or
8 b. the record of the person reflects a prior conviction
9 in another jurisdiction which did not result in a
10 revocation of Oklahoma driving privileges, for a
11 violation substantially similar to paragraph 2 of
12 subsection A of Section 6-205 of this title, and the
13 person was not a resident or a licensee of Oklahoma at
14 the time of the offense resulting in the conviction.

15 Such one-year period of revocation ~~may~~ shall be modified upon
16 request; provided, any modification under this paragraph shall apply
17 to Class D driver licenses only. For any modification, the person
18 shall be required to install an ignition interlock device or
19 devices, pursuant to Section 754.1 of this title. The period of
20 revocation and the period of interlock installation shall run
21 concurrently and each shall be for no less than one (1) year; ~~or~~

22 3. A revocation pursuant to paragraph 2 of subsection A of
23 Section 6-205 of this title or Section 753 or 754 of this title
24 shall be for a period of three (3) years, or longer if driving
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1 privileges are modified pursuant to the provisions of this
2 paragraph, if within ten (10) years preceding the date of arrest
3 relating thereto, as shown by the records of the Department:

4 a. two or more prior revocations commenced pursuant to
5 paragraph 2 or 6 of subsection A of Section 6-205 of
6 this title or Section 753 or 754 of this title,

7 b. ~~a prior revocation commenced pursuant to paragraph 2~~
8 ~~or 6 of subsection A of Section 6-205 of this title or~~
9 ~~Section 753 or 754 of this title, and completion two~~
10 ~~or more current enrollments in, or completions of the~~
11 Impaired Driver Accountability Program,

12 c. the record of the person reflects two or more prior
13 convictions in another jurisdiction which did not
14 result in a revocation of Oklahoma driving privileges,
15 for a violation substantially similar to paragraph 2
16 of subsection A of Section 6-205 of this title, and
17 the person was not a resident or a licensee of
18 Oklahoma at the time of the offense resulting in the
19 conviction, or

20 d. any combination of two or more prior revocations,
21 ~~completion~~ current enrollments in, or completions of
22 the Impaired Driver Accountability Program, or
23 convictions as described in subparagraphs a, b and c
24 of this paragraph.

1 Such three-year period of revocation shall be modified upon request;
2 provided, any modification under this paragraph shall apply to Class
3 D driver licenses only. For any modification, the person shall be
4 required to install an ignition interlock device or devices,
5 pursuant to Section 754.1 of this title. The period of revocation
6 and the period of interlock installation shall run concurrently and
7 each shall be for no less than three (3) years; or

8 4. The revocation of the driving privilege of any person under
9 this section shall not run concurrently with any other revocation,
10 suspension, cancellation or denial of driving privilege resulting
11 from a different incident under this subsection and which requires
12 the driving privilege to be revoked, suspended, cancelled or denied
13 for a prescribed amount of time. A denial of driving privileges
14 based on a conviction of any offense as provided in paragraph 2 of
15 subsection A of Section 6-205 of this title shall become effective
16 on the first day the convicted person is otherwise eligible to apply
17 for and be granted driving privileges if the person was not eligible
18 to do so at the time of conviction.

19 B. The driving privilege of a person who is convicted of any
20 offense as provided in paragraph 6 of subsection A of Section 6-205
21 of this title shall be revoked or denied by the Department of Public
22 Safety for the following period, as applicable:

23 1. The first license revocation shall be for one hundred eighty
24 (180) days, which shall be modified upon request; provided, for

1 license revocations for a misdemeanor charge of possessing a
2 controlled dangerous substance, the provisions of this paragraph
3 shall apply to any such revocations by the Department on or after
4 January 1, 1993; provided further, any modification under this
5 paragraph shall apply to Class D driver licenses only;

6 2. A revocation shall be for a period of one (1) year if within
7 ten (10) years preceding the date of arrest relating thereto, as
8 shown by the records of the Department:

- 9 a. a prior revocation commenced pursuant to paragraph 2
10 or 6 of subsection A of Section 6-205 of this title,
11 or Section 753 or 754 of this title,
- 12 b. a prior revocation commenced pursuant to paragraph 2
13 or 6 of subsection A of Section 6-205 of this title or
14 Section 753 or 754 of this title, and completion of
15 the Impaired Driver Accountability Program, or
- 16 c. the record of the person reflects a prior conviction
17 in another jurisdiction which did not result in a
18 revocation of Oklahoma driving privileges, for a
19 violation substantially similar to paragraph 2 or 6 of
20 subsection A of Section 6-205 of this title, and the
21 person was not a resident or a licensee of Oklahoma at
22 the time of the offense resulting in the conviction.

23 Such period shall not be modified; or
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1 3. A revocation shall be for a period of three (3) years if
2 within ten (10) years preceding the date of arrest relating thereto,
3 as shown by the records of the Department:

- 4 a. two or more prior revocations commenced pursuant to
5 paragraph 2 or 6 of subsection A of Section 6-205 of
6 this title, or Section 753 or 754 of this title,
7 b. a prior revocation commenced pursuant to paragraph 2
8 or 6 of subsection A of Section 6-205 of this title or
9 Section 753 or 754 of this title, and completion of
10 the Impaired Driver Accountability Program,
11 c. the record of the person reflects two or more prior
12 convictions in another jurisdiction which did not
13 result in a revocation of Oklahoma driving privileges,
14 for a violation substantially similar to paragraph 2
15 or 6 of subsection A of Section 6-205 of this title,
16 and the person was not a resident or licensee of
17 Oklahoma at the time of the offense resulting in the
18 conviction, or
19 d. any combination of two or more prior revocations,
20 completion of the Impaired Driver Accountability
21 Program, or convictions as described in subparagraphs
22 a and b or c of this paragraph.

23 Such period shall not be modified.
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1 The revocation of the driving privilege of any person under this
2 subsection shall not run concurrently with any other withdrawal of
3 driving privilege resulting from a different incident and which
4 requires the driving privilege to be withdrawn for a prescribed
5 amount of time. A denial based on a conviction of any offense as
6 provided in paragraph 6 of subsection A of Section 6-205 of this
7 title shall become effective on the first day the convicted person
8 is otherwise eligible to apply for and be granted driving privileges
9 if the person was not eligible to do so at the time of the
10 conviction.

11 C. For the purposes of this section:

12 1. The term "conviction" includes a juvenile delinquency
13 adjudication by a court or any notification from a court pursuant to
14 Section 6-107.1 of this title; and

15 2. The term "revocation" includes a denial of driving
16 privileges by the Department.

17 D. Each period of revocation not subject to modification shall
18 be mandatory and neither the Department nor any court shall grant
19 driving privileges based upon hardship or otherwise for the duration
20 of that period. Each period of revocation, subject to modification
21 as provided for in this section, shall be modified upon request as
22 provided for in Section 754.1 of this title or Section ~~11 of this~~
23 ~~act~~ 11-902a of this title; provided, any modification under this
24 paragraph shall apply to Class D driver licenses only.

1 E. Any appeal of a revocation or denial of driving privileges
2 shall be governed by Section 6-211 of this title.

3 SECTION 3. AMENDATORY 47 O.S. 2011, Section 6-211, as
4 amended by Section 5, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019,
5 Section 6-211), is amended to read as follows:

6 Section 6-211. A. Any person denied driving privileges, or
7 whose driving privilege has been canceled, denied, suspended or
8 revoked by the Department, except where such cancellation, denial,
9 suspension or revocation is mandatory, under the provisions of
10 Section 6-205 of this title, or disqualified by the Department,
11 under the provisions of Section 6-205.2 or 761 of this title, shall
12 have the right of appeal to the district court as hereinafter
13 provided. Proceedings before the district court shall be exempt
14 from the provisions of the Oklahoma Pleading and Discovery codes,
15 except that the appeal shall be by petition, without responsive
16 pleadings. The district court is hereby vested with original
17 jurisdiction to hear the petition.

18 B. A person whose driving privilege is denied, canceled,
19 revoked or suspended due to inability to meet standards prescribed
20 by law, or due to an out-of-state conviction or violation, or due to
21 an excessive point accumulation on the traffic record, or for an
22 unlawful license issued, may appeal in the county in which the
23 person resides.
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1 C. Any person whose driving privilege is canceled, denied,
2 suspended or revoked may appeal to the district court in the county
3 in which the offense was committed upon which the Department based
4 its order.

5 D. A person whose driving privilege is subject to revocation
6 pursuant to Section 753 or 754 of this title may appeal to the
7 district court in the county in which the arrest occurred relating
8 to the test refusal or test result, as shown by the records of the
9 Department.

10 E. The petition shall be filed within thirty (30) days after
11 the notice of revocation, pursuant to Section 753 or 754 of this
12 title, has been served upon the person. The Officer's Affidavit and
13 Notice of Revocation shall be attached to the petition. It shall be
14 the duty of the district court to enter an order setting the matter
15 for hearing not less than fifteen (15) days and not more than thirty
16 (30) days from the date the petition is filed. A certified copy of
17 petition and order for hearing shall be served forthwith by the
18 clerk of the court upon the Commissioner of Public Safety by
19 certified mail at the Department of Public Safety, Oklahoma City,
20 Oklahoma.

21 F. Upon a hearing relating to a revocation or disqualification
22 pursuant to a conviction for an offense enumerated in Section 6-205,
23 6-205.2 or 761 of this title, the court shall not consider the
24 propriety or merits of the revocation or disqualification action,

1 except to correct the identity of the person convicted as shown by
2 records of the Department.

3 G. A petition for modification may be included with the appeal
4 or separately filed at any time, and the district court may, in its
5 discretion, modify the revocation as provided for in Section 755 of
6 this title; provided, any modification under this subsection shall
7 apply to Class D driver licenses only.

8 H. The court shall take testimony and examine the facts and
9 circumstances, including all of the records on file in the office of
10 the Department of Public Safety relative to the offense committed
11 and the driving record of the person, and determine from the facts,
12 circumstances, and records whether or not the petitioner is entitled
13 to driving privileges or shall be subject to the order of denial,
14 cancellation, suspension or revocation issued by the Department. In
15 case the court finds that the order was not justified, the court may
16 sustain the appeal, vacate the order of the Department and direct
17 that driving privileges be restored to the petitioner, if otherwise
18 eligible.

19 I. The testimony of any hearing pursuant to this section shall
20 be taken by the court stenographer and preserved for the purpose of
21 appeal and, in case the Department files notice of appeal from the
22 order of the court as provided herein, the court shall order and
23 direct the court clerk to prepare and furnish a complete transcript
24 of all pleadings and proceedings, together with a complete

1 transcript taken at the hearing at no cost to the Department, except
2 the cost of transcribing.

3 J. ~~An appeal may be taken by the person or by the Department~~
4 ~~from the order or judgment of the district court to the Supreme~~
5 ~~Court of the State of Oklahoma as otherwise provided by law~~ To stay
6 or supersede any order of the Department, the petitioner may execute
7 and file a cash appeal bond in the sum of Two Hundred Fifty Dollars
8 (\$250.00) with the clerk of the court, to be approved by the court
9 clerk. A certified copy of the bond shall be served upon the
10 Commissioner of the Department of Public Safety along with the
11 notice of hearing and petition. The bond shall be to the State of
12 Oklahoma and conditioned that the petitioner shall prosecute the
13 appeal with due diligence and during pendency of the appeal abide by
14 and not violate any laws of this state or any other state in the
15 operation of a motor vehicle, and that the petitioner shall abide by
16 and perform the final judgment of the court therein, and in case the
17 appeal is finally denied, the appellant shall pay all court costs
18 incurred in the appeal in district court. If the petitioner is
19 convicted of a traffic offense during the pendency of the appeal or
20 fails to prosecute the appeal with due diligence, the bond may be
21 forfeited to the court fund upon application by the Department and
22 after hearing before the court in which the appeal is pending.

23 K. After filing and approval of the appeal bond and the
24 furnishing thereof to the Department as hereby provided, the

1 Department shall restore driving privileges to the person if
2 otherwise eligible, and the person shall be permitted to operate a
3 motor vehicle pending the appeal, under terms and conditions
4 prescribed in the bond which shall include the installation of an
5 ignition interlock device on every motor vehicle operated by the
6 person, pursuant to Section 754.1 or 755 of this title; provided,
7 however, if the order of the Department is sustained in final
8 judgment, the court shall, in such final judgment, enter an order
9 extending the period of suspension or revocation for such time as
10 the petitioner was permitted to operate motor vehicles under the
11 provisions of an appeal bond, and the court shall also in final
12 judgment direct and require the immediate surrender of any driver
13 license or licenses to the Department.

14 L. An order or judgment of the district court shall be an
15 appealable order.

16 SECTION 4. AMENDATORY 47 O.S. 2011, Section 6-212.3, as
17 last amended by Section 8, Chapter 400, O.S.L. 2019 (47 O.S. Supp.
18 2019, Section 6-212.3), is amended to read as follows:

19 Section 6-212.3. A. Whenever the installation of an ignition
20 interlock device is allowed or required by law, the Department shall
21 require the device to be installed upon any vehicle owned or leased,
22 as reflected on the vehicle registration, by an employer of the
23 person for use by the person, except when the employer requests the
24 ignition interlock device not be installed. The request shall be in

1 writing and notarized on the official letterhead of the employer and
2 provided by the employer to the Department; provided, a request
3 shall not be accepted by the Department under the following
4 circumstances:

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

8 2. When the person is employed by a relative who is within the
9 first degree of consanguinity or who resides in the same household;
10 or

11 3. When the person has had a prior revocation pursuant to
12 paragraph 2 of subsection A of Section 6-205 of this title or
13 Section 753 or 754 of this title.

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

16 B. 1. Upon request and eligibility, the Department shall issue
17 a restricted driver license to the person, upon payment of a
18 restricted driver license fee of Fifty Dollars (\$50.00) and all
19 other appropriate fees by the person. The restricted driver license
20 and the driving record of the person shall indicate by an
21 appropriate restriction that the person is only authorized to
22 operate a vehicle upon which an approved and properly functioning
23 ignition interlock device is installed. If the person is operating
24 a motor vehicle owned or leased by an employer who has not given

1 permission for an ignition interlock device to be installed, the
2 employer shall provide the person with a letter, on official
3 letterhead of the employer, which the person shall carry in his or
4 her immediate possession at all times when operating a motor vehicle
5 and shall display for examination and inspection upon demand of a
6 peace officer.

7 2. The restricted driver license fee authorized by this section
8 shall be remitted to the State Treasurer to be credited to the
9 Department of Public Safety Restricted Revolving Fund. All monies
10 accruing to the credit of the Department of Public Safety Restricted
11 Revolving Fund from the restricted driver license fees shall be
12 budgeted and expended solely for the purpose of administering the
13 provisions of this section.

14 3. The installation of an ignition interlock device, as
15 required by this section, shall not be construed to authorize the
16 person to drive unless the person is otherwise eligible to drive.

17 C. Installation of an ignition interlock device shall run
18 concurrently with a court order, if any, for installation of an
19 ignition interlock device pursuant to the same conviction.

20 D. Installation of an ignition interlock device pursuant to any
21 court order, Impaired Driver Accountability Program or other
22 diversionary program shall be credited towards any requirement for
23 the installation of an ignition interlock device pursuant to any
24

1 court order, Impaired Driver Accountability Program or other
2 diversionary program arising out of the same incident.

3 E. The person shall be required to have installed an ignition
4 interlock device approved by the Board of Tests for Alcohol and Drug
5 Influence, at his or her own expense, and comply with all provisions
6 of law regarding ignition interlock devices.

7 F. The ignition interlock device manufacturer shall report
8 violations, if any, in accordance with the rules of the Board of
9 Tests for Alcohol and Drug Influence for each ignition interlock
10 device installed pursuant to this section and Section 6-205.1 of
11 this title.

12 G. Pursuant to Section 6-205.1 of this title, the Department
13 shall extend the period of ignition interlock of the person for a
14 report from the Board of Tests for Alcohol and Drug Influence of a
15 reportable violation by the person as defined in the rules of the
16 Board of Tests for Alcohol and Drug Influence. A restriction
17 imposed under this section or Section 6-205.1 of this title shall
18 remain in effect until the Department receives a declaration from
19 the Board of Tests for Alcohol and Drug Influence, in a form
20 provided or approved by the Department, certifying that there have
21 been no reportable violations in the sixty (60) consecutive days
22 prior to the date of release, for a one hundred eighty (180)
23 modification, or one hundred twenty (120) consecutive days prior to
24 the date of release, for a one (1) year modification, or three

1 hundred sixty five (365) consecutive days prior to the date of
2 release for a three (3) year modification. The Department shall
3 send notice in accordance with Section 2-116 of this title prior to
4 extending the period of ignition interlock. Upon request, made
5 within fifteen (15) days of completion of the notice, the person
6 shall have the right to an informal hearing before the Department
7 prior to any extension of the period of ignition interlock. The
8 hearing shall be limited to the issues of the validity of the
9 ignition interlock violation and the identity of the person
10 committing the violation. Should the release date of the person
11 occur after the Department has received the informal hearing request
12 but before the informal hearing, the period of ignition interlock of
13 the person shall be extended pending the final judgment of the
14 Department.

15 H. The Department shall promulgate rules necessary to implement
16 and administer the provisions of this section.

17 SECTION 5. AMENDATORY Section 9, Chapter 400, O.S.L.
18 2019 (47 O.S. Supp. 2019, Section 6-212.5), is amended to read as
19 follows:

20 Section 6-212.5. A. The Department of Public Safety shall
21 establish the Impaired Driver Accountability Program (IDAP) at the
22 Department of Public Safety. Fees collected by the Department for
23 admission into the program shall be deposited in the Department of
24 Public Safety Restricted Revolving Fund for support of the program.

1 The Department shall promulgate rules necessary to administer the
2 program.

3 B. The Department may enter into an IDAP agreement with the
4 person if:

5 1. The Department receives the request for IDAP participation
6 within thirty (30) calendar days from the date that notice was given
7 pursuant to Section ~~10 of this act~~ 6-212.6 of this title;

8 2. The Department receives payment of the program
9 administration fee of Two Hundred Dollars (\$200.00) within forty-
10 five (45) days of the date notice was given pursuant to Section ~~10~~
11 ~~of this act~~ 6-212.6 of this title;

12 3. The Department receives an ignition interlock device
13 installation verification issued in accordance with the rules of the
14 Board of Tests for Alcohol and Drug Influence within forty-five (45)
15 days from the date notice was given pursuant to Section ~~10 of this~~
16 ~~act~~ 6-212.6 of this title; and

17 4. The person is not otherwise ineligible for driving
18 privileges in Oklahoma on the date the person enters into the IDAP
19 agreement; and

20 5. The person shall obtain a restricted driver license,
21 pursuant to Section 6-212.3 of this title.

22 C. Upon successful completion of the program, the records of
23 the Department will be updated to indicate completion of the program
24

1 by the person without revocation. No reinstatement fee will be
2 charged to the person.

3 D. A participant may, upon written request, voluntarily
4 withdraw from IDAP. The driving privilege of a person who
5 voluntarily withdraws from the program shall be immediately revoked.
6 The Department shall not credit the person's time participating in
7 the IDAP toward the required revocation period. IDAP fees shall not
8 be refundable.

9 E. The program length shall be:

10 1. A minimum of six (6) months for a person subject to
11 revocation pursuant to paragraph 1 of subsection A of Section 6-
12 205.1 of Title 47 of the Oklahoma Statutes. A restriction imposed
13 under this section shall remain in effect until the Department
14 receives a declaration from the Board of Tests for Alcohol and Drug
15 Influence, in a form provided or approved by the Department,
16 certifying that there have been no reportable violations in the
17 sixty (60) consecutive days prior to the date of release. If the
18 Department receives notice of any ignition interlock reportable
19 violations during the sixty (60) consecutive days prior to release,
20 as determined by the Board of Tests for Alcohol and Drug Influence,
21 the program period shall be extended for a period of sixty (60)
22 days. The Department is authorized to determine the number and type
23 of verified ignition interlock violations that result in program
24 extensions;

1 2. A minimum of twelve (12) months for a person subject to
2 revocation pursuant to paragraph 2 of subsection A of Section 6-
3 205.1 of Title 47 of the Oklahoma Statutes. A restriction imposed
4 under this section shall remain in effect until the Department
5 receives a declaration from the Board of Tests for Alcohol and Drug
6 Influence, in a form provided or approved by the Department,
7 certifying that there have been no reportable violations in the one
8 hundred twenty (120) consecutive days prior to the date of release.
9 If the Department receives notice of any ignition interlock
10 reportable violations during the one hundred twenty (120)
11 consecutive days prior to release, as determined by the Board of
12 Tests for Alcohol and Drug Influence, the program period shall be
13 extended for a period of one hundred twenty (120) days. The
14 Department is authorized determine the number and type of verified
15 ignition interlock violations that result in program extensions; or

16 3. A minimum of thirty-six (36) months for a person subject to
17 revocation pursuant to paragraph 3 of subsection A of Section 6-
18 205.1 of Title 47 of the Oklahoma Statutes. A restriction imposed
19 under this section shall remain in effect until the Department
20 receives a declaration from the Board of Tests for Alcohol and Drug
21 Influence, in a form provided or approved by the Department,
22 certifying that there have been no reportable violations in the one
23 (1) year prior to the date of release. If the Department receives
24 notice of any ignition interlock reportable violations during the

1 final one (1) year prior to release, as determined by the Board of
2 Tests for Alcohol and Drug Influence, the program period shall be
3 extended for a period of one (1) year. The Department is authorized
4 to determine the number and type of verified ignition interlock
5 violations that result in program extensions.

6 ~~E.~~ F. Prior to an extension of the program period, the
7 Department shall send notice of the extension in accordance with
8 Section 2-116 of Title 47 of the Oklahoma Statutes. Upon request,
9 which shall be made within fifteen (15) days of receipt of the
10 notice, the person shall have the right to an informal hearing
11 before the Department prior to any extension of the program. The
12 hearing shall be limited to the issues of the validity of the
13 ignition interlock reportable violation and the identity of the
14 person committing the violation. Should the release date of the
15 person occur after the Department has received the informal hearing
16 request but before the informal hearing, the period of ignition
17 interlock of the person shall be extended pending the final judgment
18 of the Department.

19 ~~F.~~ G. Effective July 1, 2020, and for each fiscal year
20 thereafter:

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

1 the Department of Public Safety's Restricted Revolving Fund, as
2 provided for Section 2-145 of this title; 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. AMENDATORY 47 O.S. 2011, Section 752, as last
8 amended by Section 13, Chapter 400, O.S.L. 2019 (47 O.S. Supp. 2019,
9 Section 752), is amended to read as follows:

10 Section 752. A. Only a licensed medical doctor, licensed
11 osteopathic physician, licensed chiropractic physician, registered
12 nurse, licensed practical nurse, physician's assistant, certified by
13 the ~~State Board of Medical Licensure and Supervision~~ any state's
14 appropriate licensing authority, an employee of a hospital or other
15 health care facility authorized by the hospital or health care
16 facility to withdraw blood, ~~or other qualified person authorized by~~
17 ~~the Board of Tests for Alcohol and Drug Influence~~ individuals
18 licensed in accordance with Section 1-2505 of Title 63 of the
19 Oklahoma Statutes as an Intermediate Emergency Medical Technician,
20 an Advanced Emergency Medical Technician or a Paramedic, acting at
21 the request of a law enforcement officer may withdraw blood for the
22 purpose of having a determination made of its concentration of
23 alcohol or the presence or concentration of other intoxicating
24 substance. Only qualified persons authorized by the Board may

1 collect breath, saliva or urine, or administer tests of breath under
2 the provisions of this title.

3 B. If the person authorized to withdraw blood as specified in
4 subsection A of this section is presented with a written statement:

5 1. Authorizing blood withdrawal signed by the person whose
6 blood is to be withdrawn;

7 2. Signed by a duly authorized peace officer that the person
8 whose blood is to be withdrawn has agreed to the withdrawal of
9 blood;

10 3. Signed by a duly authorized peace officer that the person
11 whose blood is to be withdrawn has been placed under arrest and that
12 the officer has probable cause to believe that the person, while
13 intoxicated, has operated a motor vehicle in such manner as to have
14 caused the death or serious physical injury of another person, or
15 the person has been involved in a traffic accident and has been
16 removed from the scene of the accident that resulted in the death or
17 great bodily injury, as defined in subsection B of Section 646 of
18 Title 21 of the Oklahoma Statutes, of any person to a hospital or
19 other health care facility outside the State of Oklahoma before the
20 law enforcement officer was able to effect an arrest for such
21 offense; or

22 4. In the form of an order from a district court that blood be
23 withdrawn, the person authorized to withdraw the blood and the
24 hospital or other health care facility where the withdrawal occurs

1 may rely on such a statement or order as evidence that the person
2 has consented to or has been required to submit to the clinical
3 procedure and shall not require the person to sign any additional
4 consent or waiver form. In such a case, the person authorized to
5 perform the procedure, the employer of such person, and the hospital
6 or other health care facility shall not be liable in any action
7 alleging lack of consent or lack of informed consent.

8 C. No person specified in subsection A of this section, no
9 employer of such person, and no hospital or other health care
10 facility where blood is withdrawn shall incur any civil or criminal
11 liability as a result of the proper withdrawal of blood when acting
12 at the request of a law enforcement officer by the provisions of
13 Section 751 or 753 of this title, or when acting in reliance upon a
14 signed statement or court order as provided in this section, if the
15 act is performed in a reasonable manner according to generally
16 accepted clinical practice. No person specified in subsection A of
17 this section shall incur any civil or criminal liability as a result
18 of the proper collection of breath, saliva or urine when acting at
19 the request of a law enforcement officer under the provisions of
20 Section 751 or 753 of this title or when acting pursuant to a court
21 order.

22 D. The blood, breath, saliva or urine specimens obtained shall
23 be tested by the appropriate test as determined by the Board, or
24 tested by a laboratory that is exempt from the Board rules pursuant
25

1 to Section 759 of this title, to determine the alcohol concentration
2 thereof, or the presence or concentration of any other intoxicating
3 substance which might have affected the ability of the person tested
4 to operate a motor vehicle safely.

5 E. When blood is withdrawn ~~or saliva or urine is collected~~ for
6 testing of its alcohol concentration or other intoxicating substance
7 presence or concentration, at the request of a law enforcement
8 officer, a sufficient quantity of the same specimen shall be
9 obtained to enable the tested person, at his or her own option and
10 expense, to have an independent analysis made of such specimen. The
11 excess blood, ~~saliva or urine~~ specimen shall be retained by a
12 laboratory approved by the Board, in accordance with the rules and
13 regulations of the Board, or by a laboratory that is exempt from the
14 Board rules pursuant to Section 759 of this title, for sixty (60)
15 days from the date of collection. At any time within that period,
16 the tested person or his or her attorney may direct that such blood,
17 saliva or urine specimen be sent or delivered to a laboratory of his
18 or her own choosing and approved by the Board for an independent
19 analysis. Neither the tested person, nor any agent of such person,
20 shall have access to the additional blood, saliva or urine specimen
21 prior to the completion of the independent analysis, except the
22 analyst performing the independent analysis and agents of the
23 analyst.
24

1 F. ~~When a test of breath is performed for the purpose of~~
2 ~~determining the alcohol concentration thereof, except when such test~~
3 ~~is performed by means of an automated analyzer as designated by the~~
4 ~~Board, a sufficient quantity of breath, or of the alcohol content of~~
5 ~~a fixed or measured quantity of breath, shall be obtained, in~~
6 ~~accordance with the rules and regulations of the Board, to enable~~
7 ~~the tested person, at his or her own option and expense, to have an~~
8 ~~independent analysis thereof, except the analyst performing the~~
9 ~~independent analysis and agents of the analyst.~~

10 G. The costs of collecting blood, ~~breath,~~ or saliva ~~or urine~~
11 specimens for the purpose of determining the alcohol or other
12 intoxicating substance thereof, by or at the direction of a law
13 enforcement officer, shall be borne by the law enforcement agency
14 employing such officer; provided, if the person is convicted for any
15 offense involving the operation of a motor vehicle while under the
16 influence of or while impaired by alcohol or an intoxicating
17 substance, or both, as a direct result of the incident which caused
18 the collection of blood, or saliva ~~or urine~~ specimens, an amount
19 equal to the costs shall become a part of the court costs of the
20 person and shall be collected by the court and remitted to the law
21 enforcement agency bearing the costs. The cost of collecting,
22 retaining and sending or delivering to an independent laboratory the
23 excess specimens of blood, ~~breath,~~ or saliva ~~or urine~~ for
24 independent analysis at the option of the tested person shall also

1 be borne by such law enforcement agency. The cost of the
2 independent analysis of such specimen of blood, ~~breath or~~ saliva ~~or~~
3 ~~urine~~ shall be borne by the tested person at whose option such
4 analysis is performed. The tested person, or his or her agent,
5 shall make all necessary arrangements for the performance of such
6 independent analysis other than the forwarding or delivery of such
7 specimen.

8 ~~H.~~ G. Tests of blood or breath for the purpose of determining
9 the alcohol concentration thereof, and tests of blood, ~~saliva or~~
10 ~~urine~~ for the purpose of determining the presence or concentration
11 of any other intoxicating substance therein, under the provisions of
12 this title, whether administered by or at the direction of a law
13 enforcement officer or administered independently, at the option of
14 the tested person, on the excess specimen of such person's blood,
15 ~~breath, or~~ saliva ~~or urine~~, to be considered valid and admissible in
16 evidence under the provisions of this title, shall have been
17 administered ~~or performed in accordance with the rules and~~
18 ~~regulations of the Board, or performed by a laboratory that is~~
19 ~~exempt from the Board rules pursuant~~ in accordance with to Section
20 759 of this title.

21 ~~I.~~ H. Any person who has been arrested for any offense arising
22 out of acts alleged to have been committed while the person was
23 operating or in actual physical control of a motor vehicle while
24 under the influence of alcohol, any other intoxicating substance or
25

1 the combined influence of alcohol and any other intoxicating
2 substance who is not requested by a law enforcement officer to
3 submit to a test shall be entitled to have an independent test of
4 his or her blood, ~~breath, saliva or urine which is appropriate as~~
5 ~~determined by the Board~~ for the purpose of determining its alcohol
6 concentration or the presence or concentration of any other
7 intoxicating substance therein, performed by a person of his or her
8 own choosing who is qualified as stipulated in this section. The
9 arrested person shall bear the responsibility for making all
10 necessary arrangements for the administration of such independent
11 test and for the independent analysis of any specimens obtained, and
12 bear all costs thereof. The failure or inability of the arrested
13 person to obtain an independent test shall not preclude the
14 admission of other competent evidence bearing upon the question of
15 whether such person was under the influence of alcohol, or any other
16 intoxicating substance or the combined influence of alcohol and any
17 other intoxicating substance.

18 ~~J.~~ I. Any agency or laboratory certified by the Board or any
19 agency or laboratory that is exempt from the Board rules pursuant to
20 Section 759 of this title, which analyses ~~breath, blood, or urine or~~
21 saliva, shall make available a written report of the results of the
22 test administered by or at the direction of the law enforcement
23 officer to:

- 24 1. The tested person, or his or her attorney;

1 2. The Commissioner of Public Safety; and

2 3. The Fatality Analysis Reporting System (FARS) analyst of the
3 state, upon request.

4 The results of the tests provided for in this title shall be
5 admissible in all civil actions, including administrative hearings
6 regarding driving privileges.

7 SECTION 7. AMENDATORY 47 O.S. 2011, Section 759, as last
8 amended by Section 1, Chapter 125, O.S.L. 2015 (47 O.S. Supp. 2019,
9 Section 759), is amended to read as follows:

10 Section 759. A. There is hereby re-created, to continue until
11 July 1, 2022, in accordance with the provisions of the Oklahoma
12 Sunset Law, the Board of Tests for Alcohol and Drug Influence to be
13 composed of the following members beginning July 1, 2015:

14 1. The Dean of the Oklahoma State University College of
15 Osteopathic Medicine, or a designee;

16 2. The Dean of the University of Oklahoma College of Medicine,
17 or a designee;

18 3. The Commissioner of Public Safety, or a designee;

19 4. The Director of the Oklahoma State Bureau of Investigation,
20 or a designee;

21 5. The State Commissioner of Health, or a designee;

22 6. The Director of the Council on Law Enforcement Education and
23 Training, or a designee;

1 7. One certified peace officer who is a member of a local law
2 enforcement agency selected by the Oklahoma Sheriffs and Peace
3 Officers Association; and

4 8. One person selected by the Oklahoma Association of Chiefs of
5 Police.

6 Members shall serve without pay other than reimbursement of
7 necessary and actual expenses as provided in the State Travel
8 Reimbursement Act. Each member shall receive an appointment in
9 writing which shall become a permanent part of the records of the
10 Board. The chair and vice-chair shall be elected from the
11 membership of the Board every two (2) years. The Board is
12 authorized to appoint a State Director of Tests for Alcohol and Drug
13 Influence and other employees, including, but not limited to,
14 persons to conduct training and provide administrative assistance as
15 necessary for the performance of its functions, subject to available
16 funding and authorized full-time equivalent employee limitations.

17 The Board is authorized to delegate procedural matters to the
18 Director by administrative rule. The Board may expend appropriated
19 funds for purposes consistent with Sections 751 through 761 of this
20 title and Sections 301 through 308 of Title 3 of the Oklahoma
21 Statutes. The Legislature shall appropriate funds to the Department
22 of Public Safety for the support of the Board of Tests For Alcohol
23 and Drug Influence and its employees, if any. Upon the transfer of
24 any employees from the Alcohol Drug Countermeasures Unit of the

1 Department of Public Safety to the Board of Tests For Alcohol and
2 Drug Influence on July 1, 2003, all funds of the Unit appropriated
3 and budgeted shall be transferred to the Board, and may be budgeted
4 and expended to support the functions and personnel of the Board.

5 B. ~~Collection and analysis of a person's blood, breath, saliva~~
6 ~~or urine, to be considered valid and admissible in evidence, whether~~
7 ~~performed by or at the direction of a law enforcement officer or at~~
8 ~~the request of the tested person, shall have been performed in~~
9 ~~compliance with the rules adopted by the Board of Tests for Alcohol~~
10 ~~and Drug Influence and by an individual possessing a valid permit~~
11 ~~issued by the Board for this purpose or shall have been performed by~~
12 ~~a laboratory accredited in Toxicology by the American Society of~~
13 ~~Crime Laboratory Directors/Laboratory Accreditation Board~~
14 ~~(ASCLD/LAB) or accredited by the American Board of Forensic~~
15 ~~Toxicology (ABFT)~~ of a person's blood to be considered valid and
16 admissible in evidence, whether performed by or at the direction of
17 a law enforcement officer or at the request of the test person,
18 shall have been performed by a person authorized to collect blood as
19 provided in Section 752 of this title. Analysis of a person's blood
20 to be considered valid and admissible in evidence, whether performed
21 by or at the direction of a law enforcement officer or at the
22 request of the tested person, shall have been performed by a
23 laboratory accredited in accordance with ISO/IEC 17025 as defined in
24 Section 150.37 of Title 74 of the Oklahoma Statutes.

1 C. ~~The Board of Tests for Alcohol and Drug Influence is~~
2 ~~authorized to approve laboratories for the analysis, provided by the~~
3 ~~provisions of this title, of specimens of blood, breath, saliva and~~
4 ~~urine, and to administer a program for regular monitoring of such~~
5 ~~laboratories~~ Collection of a person's breath, to be considered valid
6 and admissible in evidence:

7 1. Shall have been performed by an individual possessing a
8 valid permit issued by the Board of Tests for Alcohol and Drug
9 Influence for this purpose;

10 2. Shall have been performed on a breath alcohol measurement
11 device appearing on the most current conforming products list of
12 such devices published by the U.S. Department of Transportation in
13 the Federal Register, and utilizing a calibrating unit appearing on
14 the most current conforming products list of such devices published
15 by the U.S. Department of Transportation in the Federal Register;
16 and

17 3. Shall have been performed on device maintained by the Board
18 of Tests for Alcohol and Drug Influence.

19 D. The Board is authorized to prescribe uniform standards and
20 conditions for, and to approve satisfactory methods, procedures,
21 techniques, ~~devices,~~ equipment and records for tests and analyses
22 and to prescribe and approve the requisite education and training
23 for the performance of ~~such tests and or~~ analyses of breath to
24 determine the breath alcohol concentration. The Board shall

1 establish standards for and ascertain the qualifications and
2 competence of individuals to administer ~~and conduct such~~ tests and
3 analyses of breath to determine the breath alcohol concentration,
4 and to issue permits ~~to laboratories and~~ to individuals which shall
5 be subject to suspension or revocation at the discretion of the
6 Board. The Board is authorized to prescribe uniform standards,
7 conditions, methods, procedures, techniques, devices, equipment and
8 records for the collection, handling, retention, storage,
9 preservation and delivery of specimens of blood, breath, saliva and
10 urine obtained for the purpose of determining the alcohol
11 concentration thereof or the presence or concentration of any other
12 intoxicating substance therein. The Board may take such other
13 actions as may be reasonably necessary or appropriate to effectuate
14 the purposes of Sections 751 through 761 of this title and Sections
15 301 through 308 of Title 3 of the Oklahoma Statutes, and may adopt,
16 amend and repeal such other rules consistent with this chapter as
17 the Board shall determine proper. ~~Laboratories accredited in~~
18 ~~Toxicology by the American Society of Crime Laboratory~~
19 ~~Directors/Laboratory Accreditation Board (ASCLD/LAB) or accredited~~
20 ~~by the American Board of Forensic Toxicology (ABFT) are exempt from~~
21 ~~the provisions of this subsection.~~

22 ~~D.~~ E. The Board shall promulgate rules adopting uniform
23 standards and conditions and rules approving devices, equipment,
24 methods, procedures, techniques, and records for screening tests

1 administered for the purpose of determining the presence or
2 concentration of alcohol or any other intoxicating substance in a
3 person's blood, breath, saliva or urine. Such screening tests shall
4 be performed in compliance with the rules adopted by the Board of
5 Tests for Alcohol and Drug Influence. For the purpose of this
6 subsection, "screening test" means the use of devices, equipment,
7 methods, procedures, techniques and records by law enforcement
8 officers at roadside to assist in the development of probable cause.

9 ~~E.~~ F. The Board may set rules and charge appropriate fees for
10 operations incidental to its required duties and responsibilities.

11 ~~F.~~ G. There is hereby created in the State Treasury a revolving
12 fund for the Board of Tests for Alcohol and Drug Influence to be
13 designated the "Board of Tests for Alcohol and Drug Influence
14 Revolving Fund". The fund shall be a continuing fund, not subject
15 to fiscal year limitations, and shall consist of monies received
16 pursuant to the provisions of subsection E of this section and any
17 funds previously deposited in the Board of Tests for Alcohol and
18 Drug Influence Revolving Fund. All monies accruing to the credit of
19 the fund are hereby appropriated and may be budgeted and expended by
20 the Board of Tests for Alcohol and Drug Influence for operating
21 expenses of the Board. Expenditures from the funds shall be made
22 upon warrants issued by the State Treasurer against claims filed as
23 prescribed by law with the Director of the Office of Management and
24 Enterprise Services for approval and payment.

1 SECTION 8. REPEALER Section 1, Chapter 400, O.S.L. 2019
2 (47 O.S. Supp. 2019, Section 6-212.6), is hereby repealed.

3 SECTION 9. This act shall become effective November 1, 2020.
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