

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

HOUSE BILL 3018

By: Fugate

AS INTRODUCED

An Act relating to driving under the influence; amending 47 O.S. 2021, Section 11-902, as amended by Section 1, Chapter 347, O.S.L. 2025 (47 O.S. Supp. 2025, Section 11-902), which relates to persons under the influence of alcohol or other intoxicating substance or combination thereof; making certain exception for marijuana, marijuana derivatives, and synthetic cannabinoids; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 11-902, as amended by Section 1, Chapter 347, O.S.L. 2025 (47 O.S. Supp. 2025, Section 11-902), is amended to read as follows:

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

1 1. Has a blood or breath alcohol concentration, as defined in
2 Section 756 of this title, of eight-hundredths (0.08) or more at the
3 time of a test of such person's blood or breath;

4 2. Is under the influence of alcohol;

5 3. ~~Has~~ With the exception of marijuana, marijuana derivative,
6 or synthetic cannabinoid, has any amount of a Schedule I chemical or
7 controlled substance, as defined in Section 2-204 of Title 63 of the
8 Oklahoma Statutes, or one of its metabolites or analogs in the
9 person's blood, saliva, urine, or any other bodily fluid at the time
10 of a test of such person's blood, saliva, urine, or any other bodily
11 fluid;

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

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

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

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

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

11 2. Any person who, having been convicted of or having received
12 deferred judgment for a violation of this section or a violation
13 pursuant to the provisions of any law of this state or another state
14 prohibiting the offenses provided in this section, Section 11-904 of
15 this title, or paragraph 4 of subsection A of Section 852.1 of Title
16 21 of the Oklahoma Statutes, or having a prior conviction in a
17 municipal criminal court of record for the violation of a municipal
18 ordinance prohibiting the offense provided for in this section,
19 commits a subsequent violation of this section within ten (10) years
20 of the date following the completion of the execution of such
21 sentence or deferred judgment shall, upon conviction, be guilty of a
22 felony and shall participate in an assessment and evaluation
23 pursuant to subsection H of this section and shall be sentenced to:
24

- a. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense,
- b. use of an ignition interlock device, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes,
- c. imprisonment in the custody of the Department of Corrections for not less than one (1) year and not more than five (5) years, and
- d. a fine not more than Two Thousand Five Hundred Dollars (\$2,500.00).

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

3. Any person who commits a violation of this section after having been convicted of a felony offense pursuant to the provisions of this section or a violation pursuant to the provisions of any law of this state or another state prohibiting the offenses provided for in this section, Section 11-904 of this title, or paragraph 4 of subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes shall be guilty of a felony and participate in an assessment and evaluation pursuant to subsection H of this section and shall be sentenced to:

- a. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense,
- b. two hundred forty (240) hours of community service,
- c. use of an ignition interlock device, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes,
- d. imprisonment in the custody of the Department of Corrections for not less than one (1) year and not more than ten (10) years, and
- e. a fine not more than Five Thousand Dollars (\$5,000.00).

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

4. Any person who commits a violation of this section after having been twice convicted of a felony offense pursuant to the provisions of this section or a violation pursuant to the provisions of any law of this state or another state prohibiting the offenses provided for in this section, Section 11-904 of this title, or paragraph 4 of subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes shall be guilty of a felony and participate in an assessment and evaluation pursuant to subsection H of this section and shall be sentenced to:

- a. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense, followed by not less than one (1) year of supervision and periodic testing, as provided in subparagraph q of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes, at the defendant's expense,
- b. four hundred eighty (480) hours of community service,
- c. use of an ignition interlock device, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes, for a minimum of ninety (90) days,
- d. imprisonment in the custody of the Department of Corrections for not less than one (1) year and not more than twenty (20) years, and
- e. a fine not more than Five Thousand Dollars (\$5,000.00).

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

5. Any person who, after a previous conviction of a violation of murder in the second degree or manslaughter in the first degree in which the death was caused as a result of driving under the influence of alcohol or other intoxicating substance, is convicted

1 of a violation of this section shall be guilty of a felony and shall
2 be punished by imprisonment in the custody of the Department of
3 Corrections for not less than five (5) years and not to exceed
4 twenty (20) years, and a fine not more than Ten Thousand Dollars
5 (\$10,000.00).

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

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

16 D. Any person who is convicted of a violation of driving under
17 the influence while also committing one of more of the following
18 acts:

19 1. Driving, operating, or being in actual physical control of a
20 motor vehicle while having a blood or breath alcohol concentration
21 of fifteen-hundredths (0.15) or more at the time of a test of such
22 person's blood or breath;

1 2. Causing a motor vehicle incident involving one or more
2 vehicles that results in a report pursuant to Section 40-102 of this
3 title;

4 3. Driving in a manner that violates the provisions of Section
5 11-301, 11-302, 11-306, 11-309, or 11-311 of this title;

6 4. Driving while eluding peace officers pursuant to Section
7 540a of Title 21 of the Oklahoma Statutes;

8 5. Driving with a speed in excess of twenty (20) miles per hour
9 over the speed limit or ten (10) miles per hour over the speed limit
10 within an active school zone;

11 6. Operating a motor vehicle with a passenger younger than
12 eighteen (18) years of age; or

13 7. Reckless driving as defined in Section 11-901 of this title,
14 shall, upon conviction, be guilty of aggravated driving under the
15 influence, which shall be a felony offense.

16 E. A person convicted of aggravated driving under the influence
17 shall participate in an assessment and evaluation pursuant to
18 subsection H of this section and shall comply with all
19 recommendations for treatment. Such person shall be sentenced as
20 provided in paragraph 1, 2, 3, 4, or 5 of subsection C of this
21 section and to:

22 1. Imprisonment as provided in paragraph 1, 2, 3, 4, or 5 of
23 subsection C of this section, provided that:

1 a. for a first offense of a violation pursuant to this
2 section, the first ten (10) days of the sentence shall
3 not be subject to probation, suspension, or deferral
4 and may be served by night or weekend incarceration
5 pursuant to Section 991a of Title 22 of the Oklahoma
6 Statutes,

7 b. for a second offense of a violation pursuant to this
8 section, the first thirty (30) days of the sentence
9 shall not be subject to probation, suspension, or
10 deferral; provided further, this mandatory minimum
11 period of confinement shall be served in the county
12 jail as a condition of a suspended or deferred
13 sentence, pursuant to Section 991a of Title 22 of the
14 Oklahoma Statutes, and

15 c. the portion of the sentence not subject to probation,
16 suspension, or deferral shall increase by thirty (30)
17 days for each subsequent conviction after the second
18 offense;

19 2. A fine pursuant to paragraph 1, 2, 3, 4, or 5 of subsection
20 C of this section;

21 3. Not less than one (1) year of supervision and periodic
22 testing, as provided in subparagraph q of paragraph 1 of subsection
23 A of Section 991a of Title 22 of the Oklahoma Statutes, at the
24 defendant's expense; and

1 4. An ignition interlock device or devices, as provided by
2 subparagraph n of paragraph 1 of subsection A of Section 991a of
3 Title 22 of the Oklahoma Statutes, for a minimum of one hundred
4 eighty (180) days.

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

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

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

22 G. Service Oklahoma is hereby authorized to reinstate any
23 suspended or revoked driving privilege when the person meets the
24 statutory requirements which affect the existing driving privilege.

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

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

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

11 I. Any person who is found guilty of a violation of the
12 provisions of this section shall be required by the court to attend
13 a victims impact panel program, as defined in subsection H of
14 Section 991a of Title 22 of the Oklahoma Statutes, if such a program
15 is offered in the county where the judgment is rendered, and to pay
16 a fee of Seventy-five Dollars (\$75.00), as set by the governing
17 authority of the program and approved by the court, to the program
18 to offset the cost of participation by the defendant, if in the
19 opinion of the court the defendant has the ability to pay such fee.

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

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

5 L. When a person is found guilty of a violation of the
6 provisions of this section, the court shall order, in addition to
7 any other penalty, the defendant to pay an assessment of One Hundred
8 Dollars (\$100.00) to be deposited in the Drug Abuse Education and
9 Treatment Revolving Fund created in Section 2-503.2 of Title 63 of
10 the Oklahoma Statutes, upon collection.

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

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

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

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

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

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

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

1 SECTION 2. This act shall become effective November 1, 2026.

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