

An Act

ENROLLED SENATE
BILL NO. 712

By: David and Scott of the
Senate

and

Kannady and Manger of the
House

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 2-116, as amended by Section 3, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 2-116), which relates to giving of notice; modifying required notice; amending 47 O.S. 2011, Section 6-204, as amended by Section 4, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 6-204), which relates to court orders to surrender license; modifying certain deferral procedures; amending 47 O.S. 2011, Section 6-205, as last amended by Section 5, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 6-205), which relates to mandatory revocation of driving privileges; modifying certain revocation procedures; amending 47 O.S. 2011, Sections 6-205.1, as last amended by Section 6, Chapter 392, O.S.L. 2017, 6-211, 6-212, as last amended by Section 7, Chapter 392, O.S.L. 2017, 6-212.2 and 6-212.3, as last amended by Section 8, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Sections 6-205.1, 6-212 and 6-212.3), which relate to the cancellation, suspension or revocation of driver licenses and required completion of alcohol and drug assessment; modifying and adding qualifiers that provide for revocation or denial of driving privileges for persons convicted of driving under the influence; reducing specific revocation time periods; deleting ignition interlock installation requirement after driver license reinstatement; deleting certain revocation extension requirement; providing statutory references; allowing

for the modification of a revocation upon request; removing certain ignition interlock requirements; requiring modification of revocation upon request for persons convicted of certain drug crimes; clarifying mandatory revocation provision that prohibits the Department of Public Safety or courts from granting driving privileges; clarifying procedures for filing appeals to the district court; removing cash appeal bond requirements, procedures and conditions for filing appeal bonds; deleting time period and hearing requirements for petitions related to implied consent revocations; removing procedure that requires the submission of revocation orders issued under certain circumstances; clarifying driving privilege reinstatement guidelines; removing requirement that the Department establish the Impaired Driver Accountability Program (IDAP); deleting fee collection and deposit requirements; removing authority of the Department to enter into IDAP agreements with persons under certain circumstances; deleting all guidelines and procedures related to IDAP; removing authority of the Department to revoke, suspend or restrict driving privileges for ignition interlock violations; deleting reference to IDAP administration fee; requiring installation of ignition interlock device to run concurrently with court orders; providing installation of ignition interlock be credited toward requirements related to court orders or other diversionary programs; establishing monthly maintenance fee; directing ignition interlock device providers to submit reports of violations; authorizing the Department to extend periods of ignition interlock under certain circumstances; providing limitations on extension periods; authorizing persons to request informal hearing prior to ignition interlock extension; directing the Department to promulgate certain rules; directing the Department to establish IDAP; directing deposit of fees into certain revolving fund; directing promulgation of rules; authorizing the Department to enter into IDAP agreements under certain circumstances; authorizing program

administration fee; requiring certain verification; directing updated records upon completion of program; stating program length; providing guidelines for extending program period and requests for informal hearings; directing apportionment of monies collected; establishing requirements for providing notice of IDAP to certain persons; amending 47 O.S. 2011, Section 11-902a, as amended by Section 9, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 11-902a), which relates to use of a motor vehicle without ignition interlock device; deleting penalties for certain unlawful acts; providing single penalty provision for unlawful acts; removing bond condition that requires ignition interlock device for persons charged with second and subsequent offense; deleting time period requirements and ignition interlock device removal provision; amending 47 O.S. 2011, Sections 751, as amended by Section 10, Chapter 392, O.S.L. 2017, 752, as amended by Section 11, Chapter 392, O.S.L. 2017, 753, as last amended by Section 12, Chapter 392, O.S.L. 2017, 754, as amended by Section 13, Chapter 392, O.S.L. 2017 and 754.1, as last amended by Section 14, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Sections 751, 752, 753, 754 and 754.1), which relate to implied consent to test or determine presence of alcohol, the administration of tests, refusal to submit to test, the surrender of driver licenses and procedures for modifying the revocation or denial of driving privileges; permitting designation of testing by law enforcement; authorizing alternate testing; modifying allowable specimens; authorizing certain revocation or denial; requiring certain reinstatement; removing exception that requires seizure of driver license; decreasing time period that authorizes the operation of vehicles by certain persons; requiring receipt forms to contain certain information; deleting procedures and requirements related to the release of controlled dangerous substances submitted for laboratory analysis; stating procedures for revoking or denying driving privileges when certain test reports reflect alcohol in the blood or breath of a person; stating

when revocation or denial of driving privileges becomes effective; providing procedures and guidelines for appeal hearings before the district court; directing the district court to issue ruling after appeal hearing; providing statutory references; removing certain ignition interlock restriction for persons whose revocation has been modified; directing the district court to modify revocations or denials occurring pursuant to certain statutory provisions; requiring district courts to enter written orders directing the Department to allow driving under certain circumstances; providing for codification; and providing an effective date.

SUBJECT: Motor vehicle driving privilege procedure

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-116, as amended by Section 3, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 2-116), is amended to read as follows:

Section 2-116. Whenever the Department of Public Safety is authorized or required to give any notice under this act or other law regulating the operation of vehicles, unless a different method of giving such notice is otherwise expressly prescribed, ~~or agreed upon in writing by the Department and the person receiving notice~~, such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of such notice in an envelope with first class postage prepaid, addressed to such person at the ~~mailing~~ address as shown by the records of the Department. The giving of notice by mail is complete upon the expiration of ten (10) days after such deposit of ~~the~~ said notice ~~in the United States mail~~. Proof of the giving of notice in either such manner may be made by the certificate of any officer or employee of the Department or affidavit of any person over eighteen (18) years of age, naming the person to whom such notice was given and specifying the ~~date~~ time, place and manner of the giving ~~of~~

~~notice thereof.~~ Failure of the person to receive notice because of failure to notify the Department of a change in his or her current mailing address, as required by Section 6-116 of this title, ~~or as required by the rules of the Department,~~ shall not be sufficient grounds ~~to invalidate the giving of~~ for the person to protest the notice.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 6-204, as amended by Section 4, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 6-204), is amended to read as follows:

Section 6-204. A. Whenever any person is convicted of, ~~or receives a deferred sentence for~~ any offense for which this title makes mandatory the revocation of the driving privilege of such person by the Department as provided in Section 6-205 of this title, the court in which ~~the~~ such conviction ~~or deferred sentence~~ occurred may require the surrender to it of all ~~proof of driving privileges driver licenses~~ then held by the person so convicted ~~or sentenced~~ and the court shall thereupon forward the same together with a record of such conviction ~~or deferred sentence~~ to the Department ~~within five (5) days after the conviction or deferred sentence occurred.~~

B. Every court, including courts not of record, having jurisdiction over offenses committed under this act, or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the Department a record of the conviction of any person in such court for a violation of any such laws other than regulations governing standing or parking, and may recommend the suspension of the driving privileges of the person so convicted.

C. ~~Whenever a person arrested for any offense for which this title makes mandatory the revocation of the driving privilege of such person by the Department of Public Safety as provided in Section 6-205 of this title, and enters into a deferred prosecution agreement related to such offense, the prosecutor shall forward to the Department of Public Safety notice of the deferred prosecution agreement. The notice of a deferred prosecution agreement provided to the Department of Public Safety shall not be a violation of Section 305.5 of Title 22 of the Oklahoma Statutes.~~

~~D.~~ For the purposes of Section 6-101 et seq. of this title, the term "conviction" shall mean a final conviction or shall mean a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 6-205, as last amended by Section 5, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, 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, ~~who~~ upon receiving a record of conviction, in any municipal, state or federal court within the United States, ~~receives a deferred sentence, or a conviction, when such conviction has become final, or a deferred prosecution, for~~ 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, operating~~ 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, ~~or any offense in violation of paragraph 1, 2, 3 or 4 of subsection A of Section 11-902 of this title or any offense in violation of Section 11-906.4 of this title.~~ However, the Department shall not additionally revoke the driving privileges of the person pursuant to this subsection if the driving privilege of the person has been revoked because of a test result or test refusal pursuant to Section 753 or 754 of this title arising from the same circumstances which resulted in the conviction unless the revocation because of a test result or test refusal is set aside;

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

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

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

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

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

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

9. A misdemeanor conviction for a violation of Section ~~609~~ 1-229.34 of Title ~~37~~ 63 of the Oklahoma Statutes;

10. Failure to obey a traffic control device as provided in Section 11-202 ~~or 11-703~~ of this title or a stop sign when such failure results in great bodily injury to any other person; or

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

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

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

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

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

F. The first license revocation under paragraph 11 of subsection A of this section shall be for a period of one (1) year. Such period may ~~not~~ be modified. Any appeal of the revocation of driving privilege under paragraph 11 of subsection A of this section shall be governed by Section 6-211 of this title; provided, any modification under this subsection shall apply to Class D motor vehicles only.

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

SECTION 4. AMENDATORY 47 O.S. 2011, Section 6-205.1, as last amended by Section 6, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 6-205.1), is amended to read as follows:

Section 6-205.1 A. The driving privilege of a person who is convicted of, ~~or receives a deferred sentence, or deferred prosecution agreement for~~ any offense as provided in paragraph 2 of subsection A of Section 6-205 of this title, or a person who has refused to submit to a test or tests as provided in Section 753 of this title, or a person whose alcohol concentration is subject to the provisions of Section 754 of this title, unless the person has successfully completed, or is currently participating in, the Impaired Driver Accountability Program ~~in accordance with paragraph E of Section 6-212 of this title,~~ shall be revoked or denied by the Department of Public Safety for the following period, as applicable:

1. The first license revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title or Section 753 or 754 of this title shall be for a ~~minimum period of one (1) year~~ period of

one hundred eighty (180) days, or longer if driving privileges are modified pursuant to the provisions of this paragraph, which shall be modified upon request; provided, any modification under this paragraph shall apply to Class D driver licenses only. Modification requires the issuance of a modified driver license and the continuous installation of an ignition interlock device or devices pursuant to Section 754.1 of this title for a period of not less than one (1) year immediately preceding reinstatement of the license. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, occurring within the last one hundred eighty (180) days of the revocation period, the revocation period shall be extended until such time the person completes a violation free one hundred eighty (180) day period For any modification, the person shall be required to install an ignition interlock device or devices, pursuant to Section 754.1 of this title. The period of revocation and the period of interlock installation shall run concurrently and each shall be for no less than one hundred eighty (180) days;

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

- a. a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, or a revocation because of a test result or test refusal, or previous enrollment Section 753 or 754 of this title, or completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title, or
- b. the record of the person reflects a prior conviction in another jurisdiction which did not result in a revocation of Oklahoma driving privileges, for a violation substantially similar to paragraph 2 of subsection A of Section 6-205 of this title, and the

person was not a resident or a licensee of Oklahoma at the time of the offense resulting in the conviction.

Such ~~twenty-four-month~~ one-year period of revocation ~~shall~~ may be modified upon request; provided, any modification under this paragraph shall apply to Class D driver licenses only. ~~Modification~~ For any modification, the person shall require the issuance of a modified driver license and the installation of be required to install an ignition interlock device or devices, pursuant to Section 754.1 of this title ~~for a continuous period of not less than twenty-four (24) months immediately preceding reinstatement of the license.~~ If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, occurring within the last twelve (12) months of the revocation. The period, the of revocation and the period of interlock installation shall be extended until such time the person completes a violation free twelve-month period run concurrently and each shall be for no less than one (1) year; or

3. A revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title, ~~or a revocation because of a test result or test refusal~~ Section 753 or 754 of this title shall be for a ~~minimum~~ period of forty-eight (48) months if three (3) years, or longer if driving privileges are modified pursuant to the provisions of this paragraph, if within ten (10) years preceding the date of arrest relating thereto, as shown by the records of the Department:

- a. ~~two or more prior revocations commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, or revocations because of a test result or test refusal, or previous completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title~~ Section 753 or 754 of this title,
- b. a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title or Section 753 or 754 of this title, and completion of the Impaired Driver Accountability Program,
- c. the record of the person reflects two or more prior convictions in another jurisdiction which did not result in a revocation of Oklahoma driving privileges,

for a violation substantially similar to paragraph 2 of subsection A of Section 6-205 of this title, and the person was not a resident or a licensee of Oklahoma at the time of the offense resulting in the conviction, or

- e. d. any combination of two or more prior revocations, ~~or~~ ~~previous~~ completion of the Impaired Driver Accountability Program, or convictions as described in subparagraphs a, b and ~~b~~ c of this paragraph.

Such ~~forty-eight-month~~ three-year period of revocation shall be modified upon request; provided, any modification under this paragraph shall apply to Class D driver licenses only. ~~Modification requires the issuance of a modified driver license and the installation of~~ For any modification, the person shall be required to install an ignition interlock device or devices, pursuant to Section 754.1 of this title ~~for a continuous~~. The period of not less than forty-eight (48) months immediately preceding reinstatement of the license. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, occurring within the last twenty-four (24) months of the revocation and the period, the revocation period of interlock installation shall be extended until such time the person completes a violation free twenty-four-month period run concurrently and each shall be for no less than three (3) years.

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

1. The first license revocation shall be for one hundred eighty (180) days, which ~~may~~ shall be modified upon request; provided, for license revocations for a misdemeanor charge of possessing a controlled dangerous substance, the provisions of this paragraph shall apply to any such revocations by the Department on or after January 1, 1993; provided further, any modification under this paragraph shall apply to Class D ~~motor vehicles~~ driver licenses only;

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

- a. a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, ~~or a revocation because of a test result or test refusal, previous participation or completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title~~ Section 753 or 754 of this title, or
- b. a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title or Section 753 or 754 of this title, and completion of the Impaired Driver Accountability Program, or
- c. the record of the person reflects a prior conviction in another jurisdiction which did not result in a revocation of Oklahoma driving privileges, for a violation substantially similar to paragraph 2 or 6 of subsection A of Section 6-205 of this title, and the person was not a resident or a licensee of Oklahoma at the time of the offense resulting in the conviction.

Such period shall not be modified; or

3. A revocation shall be for a period of three (3) years if within ten (10) years preceding the date of arrest relating thereto, as shown by the records of the Department:

- a. two or more prior revocations commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title, ~~or a revocation because of a test result or test refusal, previous participation or completion of the Impaired Driver Accountability Program pursuant to Section 6-212 of this title~~ Section 753 or 754 of this title,
- b. a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205 of this title or

Section 753 or 754 of this title, and completion of the Impaired Driver Accountability Program,

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

~~e.~~ d. any combination of two or more prior revocations, completion of the Impaired Driver Accountability Program, or convictions as described in subparagraphs a and b or c of this paragraph.

Such period shall not be modified.

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

C. For the purposes of this ~~subsection~~ section:

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

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

D. Each period of revocation not subject to modification shall be mandatory and neither the Department nor any court ~~may~~ shall grant driving privileges based upon hardship or otherwise for the

duration of that period. Each period of revocation, subject to modification as provided for in this section, shall be modified upon request as provided for in Section 754.1 of this title or Section 11 of this act; provided, any modification under this paragraph shall apply to Class D driver licenses only.

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

SECTION 5. AMENDATORY 47 O.S. 2011, Section 6-211, is amended to read as follows:

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

B. A person whose driving privilege is denied, canceled, revoked or suspended due to inability to meet standards prescribed by law, or due to an out-of-state conviction or violation, or due to an excessive point accumulation on the traffic record, or for an unlawful license issued, may appeal in the county in which the person resides.

C. Any person whose driving privilege is canceled, denied, suspended or revoked may appeal to the district court in the county in which the offense was committed upon which the Department based its order.

D. A person whose driving privilege is ~~revoked or denied or who is denied a hearing~~ subject to revocation pursuant to Section 753 or 754 of this title may appeal to the district court in the county in which the arrest occurred relating to the test refusal or test result, as shown by the records of the Department.

E. ~~The petition shall be filed within thirty (30) days after the order notice of revocation, pursuant to Section 753 or 754 of this title, has been served upon the person, except a petition relating to an implied consent revocation shall be filed within thirty (30) days after the Department gives notice to the person that the revocation is sustained as provided in Section 754 of this title.~~ It shall be the duty of the district court to enter an order setting the matter for hearing not less than fifteen (15) days and not more than thirty (30) days from the date the petition is filed. A certified copy of petition and order for hearing shall be served forthwith by the clerk of the court upon the Commissioner of Public Safety by certified mail at the Department of Public Safety, Oklahoma City, Oklahoma.

F. ~~At a hearing on a revocation by the Department pursuant to the implied consent laws as provided in Sections 6-205.1, 753 and 754 of this title, the court shall not consider the merits of the revocation action unless a written request for an administrative hearing was timely submitted to the Department and the person actually exercised the opportunity to appear as provided in Section 754 of this title and the Department entered an order sustaining the revocation.~~

G. ~~Upon a hearing relating to a revocation or disqualification pursuant to a conviction for an offense enumerated in Section 6-205, 761, or 6-205.2 or 761 of this title, the court shall not consider the propriety or merits of the revocation or disqualification action, except to correct the identity of the person convicted as shown by records of the Department.~~

H. ~~In the event the Department declines to modify, as provided in Section 754.1 of this title, a revocation order issued pursuant to Section 753, Section 754, paragraph 2 of subsection A of Section 6-205 or Section 6-205.1 of this title, which is subject to modification pursuant to Section 11-906.4 of this title or Section 6-205.1 of this title, a~~

G. A petition for modification may be included with the appeal or separately filed at any time, and the district court may, in its discretion, modify the revocation as provided for in Section 755 of

this title; provided, any modification under this subsection shall apply to Class D ~~motor vehicles~~ driver licenses only.

~~¶ H.~~ The court shall take testimony and examine the facts and circumstances, including all of the records on file in the office of the Department of Public Safety relative to the offense committed and the driving record of the person, and determine from the facts, circumstances, and records whether or not the petitioner is entitled to driving privileges or shall be subject to the order of denial, cancellation, suspension or revocation issued by the Department. ~~The court may also determine whether or not, from the person's previous driving record, the order was for a longer period of time than such facts and circumstances warranted. In case the court finds that the order was not justified, the court may sustain the appeal, vacate the order of the Department and direct that driving privileges be restored to the petitioner, if otherwise eligible. The court may, in case it determines the order was justified, but that the period of the suspension or revocation was excessive, enter an order modifying the same as provided by law.~~

~~¶ I.~~ The testimony of any hearing pursuant to this section shall be taken by the court stenographer and preserved for the purpose of appeal and, in case the Department files notice of appeal from the order of the court as provided herein, the court shall order and direct the court clerk to prepare and furnish a complete transcript of all pleadings and proceedings, together with a complete transcript taken at ~~said~~ the hearing at no cost to the Department, except the cost of transcribing.

~~K.~~ ~~In order to stay or supersede any order of the Department, the petitioner may execute and file a cash appeal bond in the sum of Two Hundred Fifty Dollars (\$250.00) with the clerk of the court, to be approved by the court clerk. A certified copy of the bond shall be served along with the notice of hearing and petition.~~

~~The bond shall be to the State of Oklahoma and conditioned that the petitioner will prosecute the appeal with due diligence and during pendency of the appeal abide by and not violate any of the laws of this state or any other state in the operation of a motor vehicle, and that the petitioner will abide by and perform the final judgment of the court therein, and in case the appeal is finally denied the appellant will pay all court costs incurred in the appeal~~

~~in the district court. If the petitioner is convicted of a traffic offense during the pendency of the appeal or fails to prosecute the appeal with due diligence, the bond may be forfeited to the court fund upon application by the Department and after hearing before the court in which the appeal is pending.~~

~~L. After filing and approval of the appeal bond and the furnishing thereof to the Department as hereby provided, the Department shall restore driving privileges to the person if otherwise eligible, and the person shall be permitted to operate a motor vehicle pending the appeal, under terms and conditions as prescribed in the bond which shall include the installation of an ignition interlock device on every motor vehicle operated by the person, pursuant to Section 754.1 or 755 of this title, if the person was denied modification pursuant to any provision of paragraph 2 of subsection A of Section 6-205 or Section 6-205.1, 753 or 754 of this title; provided, however, if the order of the Department is sustained in final judgment, the court shall, in such final judgment, enter an order extending the period of suspension or revocation for such time as the petitioner was permitted to operate motor vehicles under the provisions of an appeal bond, and the court shall also in such final judgment direct and require the immediate surrender of any driver license or licenses to the Department.~~

~~M. J.~~ An appeal may be taken by the person or by the Department from the order or judgment of the district court to the Supreme Court of the State of Oklahoma as otherwise provided by law.

SECTION 6. AMENDATORY 47 O.S. 2011, Section 6-212, as last amended by Section 7, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 6-212), is amended to read as follows:

Section 6-212. A. The Department of Public Safety shall not assess and collect multiple reinstatement fees when reinstating the driving privilege of any person having more than one suspension or revocation affecting the person's driving privilege at the time of reinstatement.

B. The Department shall:

1. Suspend or revoke a person's driving privilege as delineated within the Oklahoma Statutes; and

2. Require any person having more than one suspension or revocation affecting the person's driving privilege to meet the statutory requirements for each action as a condition precedent to the reinstatement of any driving privilege. Provided, however, reinstatement fees shall not be cumulative, and a single reinstatement fee, as provided for in subsection C of this section, shall be paid for all suspensions or revocations as shown by the Department's records at the time of reinstatement.

C. Whenever a person's privilege to operate a motor vehicle is suspended or revoked pursuant to any provision as authorized by the Oklahoma Statutes, the license or privilege to operate a motor vehicle shall remain under suspension or revocation and shall not be reinstated until:

1. ~~The expiration of each such revocation or suspension order and the satisfaction of all terms and conditions of the revocation;~~

2. The person has paid to the Department:

- a. if such privilege is suspended or revoked pursuant to Section 1115.5 of Title 22 of the Oklahoma Statutes or pursuant to any provisions of this title, except as provided in subparagraph b of this paragraph, a processing fee of Twenty-five Dollars (\$25.00) for each such suspension or revocation as shown by the Department's records, or
- b. (1) if such privilege is suspended or revoked ~~because of a test result or test refusal, or~~ pursuant to the provisions of Section 6-205, 6-205.1, 7-612, 753, 754 or 761 of this title or pursuant to subsection A of Section 7-605 of this title for a conviction for failure to maintain the mandatory motor vehicle insurance required by law or pursuant to subsection B of Section 6-206 of this title for a suspension other than for points accumulation, a processing fee of Seventy-five Dollars (\$75.00) for each such suspension or revocation as shown by the Department's records, and a special assessment trauma-care fee of Two

Hundred Dollars (\$200.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of Title 63 of the Oklahoma Statutes, for each suspension or revocation as shown by the records of the Department, and

- (2) in addition to any other fees required by this section, if such privilege is suspended or revoked pursuant to an arrest on or after November 1, 2008, under the provisions of paragraph 2 or 6 of subsection A of Section 6-205 of this title or of Section 753, 754 or 761 of this title ~~or because of a test result or test refusal~~, a fee of Fifteen Dollars (\$15.00), which shall be apportioned pursuant to the provisions of Section 3-460 of Title 43A of the Oklahoma Statutes; and

3. The person has paid to the Department a single reinstatement fee of, beginning on July 1, 2013, and any year thereafter, Twenty-five Dollars (\$25.00).

D. The Department of Public Safety is hereby authorized to enter into agreements with persons whose license to operate a motor vehicle or commercial motor vehicle has been suspended or revoked, for issuance of a provisional license that ~~allows~~ would allow such persons to drive:

1. Between their place of residence and their place of employment or potential employment;
2. During the scope and course of their employment;
3. Between their place of residence and a college, university or technology center;
4. Between their place of residence and their child's school or day care provider;
5. Between their place of residence and a place of worship; or

6. Between their place of residence and any court-ordered treatment program,

with the condition that such persons pay a minimum of Twenty-five Dollars (\$25.00) per month toward the satisfaction of all outstanding driver license or commercial driver license reinstatement fees. The Department shall develop rules and procedures to establish such a provisional driver license program and such rules and procedures shall include, but not be limited to, eligibility criteria, proof of insurance, proof of enrollment or employment, and any provisional license fees. Any violation of law by the person holding the provisional license that would result in the suspension or revocation of a driver license shall result in the revocation of the provisional license and such person shall be ineligible for future application for a provisional driver license.

~~E. No later than June 30, 2018, the Department shall establish the Impaired Driver Accountability Program (IDAP) at the Department of Public Safety. Fees collected by the Department for admission into the program shall be deposited in the Department of Public Safety Restricted Revolving Fund for support of the program. The Department shall promulgate rules necessary to implement the Impaired Driver Accountability Program.~~

~~F. The Department may enter into an IDAP program agreement with the person if:~~

~~1. The Department receives the request for IDAP participation pursuant to this section within fifteen (15) calendar days from the date reflected on the dated receipt issued by an officer to the person pursuant to subsection B of Section 754 of this title, on the form provided by the Department;~~

~~2. The Department receives payment of the Two Hundred Dollars (\$200.00) program administration fee within forty-five (45) days of the date notice was given pursuant to Section 2-116 of this title;~~

~~3. The Department receives the proof of installation of an ignition interlock device approved in accordance with the rules of the Board of Tests for Alcohol and Drug Influence within forty-five (45) days from the date notice was given pursuant to Section 2-116 of this title; and~~

~~4. The Department receives proof of the driving privileges of the person including, but not limited to, out-of-state driver licenses and licenses obtained at any time before or after entry into the program within forty-five (45) days from the date notice was given pursuant to Section 2-116 of this title.~~

~~G. Upon successful completion of the program, the driving record of the person will be updated to indicate their completion of the program without revocation and no reinstatement fee will be charged to the person.~~

~~H. The program length shall be:~~

~~1. A minimum of six (6) months for a person subject to revocation pursuant to paragraph 1 of subsection A of Section 6-205.1 of this title. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, within the last three (3) months of the program period, the program period shall be extended until such time the person completes a violation free three-month period;~~

~~2. A minimum of twelve (12) months for a person subject to revocation pursuant to paragraph 2 of subsection A of Section 6-205.1 of this title. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, within the last six (6) months of the program period, the program period shall be extended until such time the person completes a violation free six-month period;~~

~~3. A minimum of twenty-four (24) months for a person subject to revocation pursuant to paragraph 3 of subsection A of Section 6-205.1 of this title. If the Department receives notice of any verified ignition interlock violations, as determined by the Board of Tests for Alcohol and Drug Influence, within the last twelve (12) months of the program period, the program period shall be extended until such time the person completes a violation free twelve-month period.~~

~~I. Completion of the program is contingent upon the compliance of the person with the rules of the Department.~~

~~J.~~ Effective July 1, 2002, and for each fiscal year thereafter:

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

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

SECTION 7. AMENDATORY 47 O.S. 2011, Section 6-212.2, is amended to read as follows:

Section 6-212.2 A. Whenever the records of the Department of Public Safety reflect a conviction of a person pursuant to Section 11-902 of this title or an alcohol- or drug-related revocation or suspension of the driving privileges of that person pursuant to the provisions of paragraph 2 or 6 of subsection A of Section 6-205 or to Section 6-205.1, 6-206, 753, 754 or 761 of this title, the person shall participate in an alcohol and drug assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the person's receptivity to treatment and prognosis. As determined by the assessment, the person shall enroll in, attend and successfully complete the appropriate alcohol and drug substance abuse course certified by the Department of Mental Health and Substance Abuse Services or an alcohol or other drug treatment program or both. The alcohol and drug substance abuse course shall consist of either ten (10) hours or twenty-four (24) hours of instruction and shall conform with the provisions of Section 3-453 of Title 43A of the Oklahoma Statutes. No citizen shall be compelled to travel more than seventy (70) miles from the citizen's place of residence to attend a course or evaluation program required herein. For purposes of this subsection, the requirement for alcohol and drug substance abuse evaluation shall be considered satisfied if the person is evaluated by an assessment agency or assessment personnel certified for that purpose, all

recommendations identified by the evaluation are satisfied by the person, and a report of such evaluation and completion is presented to the court prior to sentencing and to the Department.

B. If the assessment agency or assessment personnel in subsection A of this section determine that the person would likely benefit from a United-States-Food-and-Drug-Administration-approved medication-assisted treatment that is indicated for alcohol dependence or opioid dependence, the assessment agency or assessment personnel shall refer the defendant to a licensed physician for further evaluation. Only a licensed physician may recommend that a defendant take medication-assisted treatment, and the defendant shall maintain the right to refuse the medication.

C. The requirements of subsection A of this section shall be a condition for reinstatement of driving privileges, in addition to other conditions for driving privilege reinstatement provided by law.

SECTION 8. AMENDATORY 47 O.S. 2011, Section 6-212.3, as last amended by Section 8, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 6-212.3), is amended to read as follows:

Section 6-212.3 A. Whenever the installation of an ignition interlock device is allowed or required by law, the Department shall require the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the employer to the Department; provided, a request shall not be accepted by the Department under the following circumstances:

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

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

3. When the person has had a prior revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title or ~~as a result of a test result or a test refusal~~ Section 753 or 754 of this title.

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

~~B. The Department of Public Safety may revoke, suspend or restrict the driving privileges of the person upon receipt of a report of a verified ignition interlock violation as defined by the Board of Tests for Alcohol and Drug Influence.~~

~~C.~~ 1. Upon request and eligibility, the Department shall issue a restricted driver license to the person, upon payment of a restricted driver license fee of Fifty Dollars (\$50.00) and ~~the IDAP program administration fee, as provided in Section 6-212 of this title,~~ all other appropriate fees by the person. The restricted driver license and the driving record of the person shall indicate by an appropriate restriction that the person is only authorized to operate a vehicle upon which an approved and properly functioning ignition interlock device is installed. If the person is operating a motor vehicle owned or leased by an employer who has not given permission for an ignition interlock device to be installed, the employer shall provide the person with a letter, on official letterhead of the employer, which the person shall carry in his or her immediate possession at all times when operating a motor vehicle and shall display for examination and inspection upon demand of a peace officer.

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

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

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

D. Installation of an ignition interlock device pursuant to any court order, Impaired Driver Accountability Program or other diversionary program shall be credited towards any requirement for the installation of an ignition interlock device pursuant to any court order, Impaired Driver Accountability Program or other diversionary program arising out of the same incident.

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

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

G. Pursuant to Section 6-205.1 of this title, the Department shall extend the period of ignition interlock of the person for a report from the Board of Tests for Alcohol and Drug Influence of a reportable violation by the person as defined in the rules of the Board of Tests for Alcohol and Drug Influence. A restriction imposed under this section or Section 6-205.1 of this title shall remain in effect until the Department receives a declaration from the Board of Tests for Alcohol and Drug Influence, in a form provided or approved by the Department, certifying that there have been no reportable violations in the one hundred eighty (180) consecutive days prior to the date of release. The Department shall send notice in accordance with Section 2-116 of this title prior to extending the period of ignition interlock. Upon request, made within fifteen (15) days of completion of the notice, the person shall have the right to an informal hearing before the Department prior to any extension of the period of ignition interlock. The hearing shall be limited to the issues of the validity of the ignition interlock violation and the identity of the person committing the violation. Should the release date of the person occur after the Department has received the informal hearing request

but before the informal hearing, the period of ignition interlock of the person shall be extended pending the final judgment of the Department.

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

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-212.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Department of Public Safety shall establish the Impaired Driver Accountability Program (IDAP) at the Department of Public Safety. Fees collected by the Department for admission into the program shall be deposited in the Department of Public Safety Restricted Revolving Fund for support of the program. The Department shall promulgate rules necessary to administer the program.

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

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

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

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

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

C. Upon successful completion of the program, the records of the Department will be updated to indicate completion of the program by the person without revocation. No reinstatement fee will be charged to the person.

D. The program length shall be:

1. A minimum of six (6) months for a person subject to revocation pursuant to paragraph 1 of subsection A of Section 6-205.1 of Title 47 of the Oklahoma Statutes. A restriction imposed under this section shall remain in effect until the Department receives a declaration from the Board of Tests for Alcohol and Drug Influence, in a form provided or approved by the Department, certifying that there have been no reportable violations in the sixty (60) consecutive days prior to the date of release. If the Department receives notice of any ignition interlock reportable violations, as determined by the Board of Tests for Alcohol and Drug Influence, the program period shall be extended for a period of sixty (60) days;

2. A minimum of twelve (12) months for a person subject to revocation pursuant to paragraph 2 of subsection A of Section 6-205.1 of Title 47 of the Oklahoma Statutes. A restriction imposed under this section shall remain in effect until the Department receives a declaration from the Board of Tests for Alcohol and Drug Influence, in a form provided or approved by the Department, certifying that there have been no reportable violations in the one hundred twenty (120) consecutive days prior to the date of release. If the Department receives notice of any ignition interlock reportable violations, as determined by the Board of Tests for Alcohol and Drug Influence, the program period shall be extended for a period of one hundred twenty (120) days; or

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

determined by the Board of Tests for Alcohol and Drug Influence, the program period shall be extended for a period of one (1) year.

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

F. Effective July 1, 2020, and for each fiscal year thereafter:

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

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

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

Any person subject to revocation of driving privileges pursuant to Section 753 or 754 of Title 47 of the Oklahoma Statutes shall be given a dated notice advising the person of the availability of the Impaired Driver Accountability Program on a form prescribed by the Department of Public Safety. The notice shall be given together with the notice of revocation by the officer as required by Section 753 or 754 of Title 47 of the Oklahoma Statutes, or by the Department in accordance with Section 2-116 of Title 47 of the Oklahoma Statutes.

SECTION 11. AMENDATORY 47 O.S. 2011, Section 11-902a, as amended by Section 9, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 11-902a), is amended to read as follows:

Section 11-902a. A. No person shall knowingly authorize or permit a motor vehicle owned or under the control of that person which is not equipped with an ignition interlock device to be driven upon any street or highway of this state by any person who is required to have an ignition interlock device installed upon the vehicle of that person. ~~A violation of this subsection shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.~~

B. No person shall willfully attempt to interfere in any way with the intended and proper functioning of an ignition interlock device installed in a vehicle as required by law, or intentionally fail to return an ignition interlock device when it is no longer required in the vehicle or upon request by the owner of the device. ~~A violation of this subsection shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment.~~

C. No person granted permission to drive a motor vehicle on the condition of installation of an ignition interlock device shall drive any vehicle that is not equipped with an ignition interlock device unless driving a vehicle of an employer in accordance with ~~Section 754.1~~ or subsection A of Section 6-212.3 of this title.

D. A violation of ~~this~~ subsection A, B or C of this section shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

~~D. The court shall require, as a condition of any bond, the installation of an ignition interlock device, approved by the Board of Tests for Alcohol and Drug Influence, on any vehicle operated by the defendant charged with a second or subsequent offense under Section 11-902 of this title. The period of time for which the ignition interlock device is required to be installed pursuant to~~

~~this section shall not be credited toward any time period for which an ignition interlock device is required to be installed pursuant to Section 6-205.1 of this title. The period of time for which the ignition interlock device is required to be installed pursuant to this section shall be credited toward any time period for which ignition interlock device installation is required under the Impaired Driver Accountability Program. If the person charged successfully completes the Impaired Driver Accountability Program before a plea or verdict in their criminal case, the court may remove the ignition interlock device requirement from the bond.~~

SECTION 12. AMENDATORY 47 O.S. 2011, Section 751, as amended by Section 10, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 751), is amended to read as follows:

Section 751. A. 1. Any person who operates a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings within this state shall be deemed to have given consent to a test or tests of such person's blood or breath, for the purpose of determining the alcohol concentration as defined in Section 756 of this title, and such person's blood, saliva or urine for determining the presence or concentration of any other intoxicating substance therein as defined in this section, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings while under the influence of alcohol or other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or if the person is involved in a traffic accident that resulted in the immediate death or serious injury of any person and is removed from the scene of the accident to a hospital or other health care facility outside the State of Oklahoma before a law enforcement officer can effect an arrest.

2. A law enforcement officer, having reasonable grounds to believe that such person was operating or in actual physical control of a motor vehicle while under the influence may direct the administration of or administer the test or tests.

~~3.~~ As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. ~~Breath~~ The law enforcement agency by which the arresting officer is employed may designate, in accordance with the rules of the Board of Tests for Alcohol and Drug Influence, hereinafter referred to as the Board, whether blood or breath is to be tested for the alcohol concentration thereof, and whether blood, saliva or urine is to be tested for the presence or concentration of any other intoxicating substance therein.

In the event that law enforcement agency does not designate the test to be administered, breath shall be the substance tested for alcohol concentration unless a law enforcement officer requests a blood test in accordance with the provisions of this section. Blood may also be tested to determine the alcohol concentration or the presence or concentration of other intoxicating substances or a combination thereof in the event that breath:

~~1. There are signs of intoxication by substances other than alcohol, or a combination of alcohol and other intoxicating substances;~~

~~2. Breath cannot be tested to determine the alcohol concentration thereof because of the unavailability lack of an approved device or qualified person to administer a breath test or because such;~~

~~3. A breath test for any other reason cannot be administered in accordance with the rules of the Board;~~

~~4. The person whose breath is to be tested is incapable of submitting to and successfully completing a breath test, by reason of illness or injury or other physical disability; or~~

~~5. The person is transported a medical facility for medical examination or treatment prior to the timely administration of a breath test.~~

In the event the law enforcement agency does not designate the test to be administered, blood, saliva or urine shall be the substance tested for the presence or concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance.

C. In the event the person is incapable of submitting to and successfully completing, by reason of illness or injury or other physical disability, the test to be administered, an alternate test may be administered in accordance with the rules of the Board.

D. Any person who is unconscious or otherwise incapable of refusing to submit to a test of such person's blood or breath to determine the alcohol concentration thereof, or to a test of such person's blood, saliva or urine to determine the presence or concentration of any other intoxicating substance therein, shall be deemed not to have withdrawn the consent provided by subsection A of this section, and such test may be administered as provided herein.

An unconscious person who has been issued a citation by a law enforcement officer for one of the offenses listed in subsection A of this section is arrested for purposes of this section. The arresting officer must leave a copy of the citation with the arrested person which may be accomplished by handing it to the arrested person, or by leaving it with the personal effects of the arrested party, so as to inform the unconscious person of the arrest.

Any person who has been arrested for one of the offenses listed in subsection A of this section who is unconscious or injured and who requires immediate medical treatment as determined by a treating physician may be released on the person's own recognizance for medical reasons by the arresting officer. The arresting officer who releases an arrested person on the person's own recognizance must indicate the release on the face of the citation. Any person released on his or her own recognizance for medical reasons shall remain at liberty pending the filing of charges.

~~D.~~ E. In addition to any test designated by the arresting officer, the arrested person ~~is entitled to a blood~~ may also designate any additional test to be administered to determine the concentration of alcohol, or the presence or concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance. The cost of such additional test shall be at the expense of the arrested person.

A sufficient quantity of any ~~blood~~ specimen obtained at the ~~request~~ designation of the arrested person shall be available to the law enforcement agency employing the arresting officer. Such specimens shall be treated in accordance with the rules applicable to the specimens obtained by an arresting officer.

F. When a law enforcement officer has determined that the blood alcohol content of an individual is to be tested for the presence or concentration of alcohol, other intoxicating substance, or the combination of alcohol and any other intoxicating substance, the law enforcement officer shall inform the individual to be tested that the withdrawal of blood shall only be performed by certain medical personnel as provided for in Section 752 of this title.

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

SECTION 13. AMENDATORY 47 O.S. 2011, Section 752, as amended by Section 11, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 752), is amended to read as follows:

Section 752. A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, certified by the State Board of Medical Licensure and Supervision, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or ~~personnel licensed in accordance with Section 1-2505 of Title 63 of the Oklahoma Statutes as Intermediate Emergency Medical Technicians. Advanced Emergency Medical Technicians or Paramedics~~ other qualified person authorized by the Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer may withdraw blood for the purpose of ~~determining the presence and~~ having a determination made

of its concentration of alcohol or the presence or concentration of other intoxicating substance, or a combination thereof. Only qualified persons authorized by the Board may collect breath, saliva or urine, or administer tests of breath under the provisions of this title.

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

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

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

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

4. In the form of an order from a district court that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

C. No person specified in subsection A of this section, no employer of such person, and no hospital or other health care

facility where blood is withdrawn shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer by the provisions of Section 751 or 753 of this title, or when acting in reliance upon a signed statement or court order as provided in this section, if the act is performed in a reasonable manner according to generally accepted clinical practice. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of Section 751 or 753 of this title or when acting pursuant to a court order.

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board, or tested by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title, to determine the alcohol concentration thereof, or the presence or concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a motor vehicle safely.

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

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

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer; provided, if the person is convicted for any offense involving the operation of a motor vehicle while under the influence of or while impaired by alcohol or an intoxicating substance, or both, as a direct result of the incident which caused the collection of blood, saliva or urine specimens, an amount equal to the costs shall become a part of the court costs of the person and shall be collected by the court and remitted to the law enforcement agency bearing the costs. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

~~G.~~ H. Tests of blood or breath for the purpose of determining the alcohol concentration thereof, and tests of blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance therein, under the provisions of this title, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this title, shall have been administered or performed in accordance with the rules and

regulations of the Board, or performed by a laboratory that is exempt from the Board rules pursuant to Section 759 of this title.

~~H.~~ I. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was operating or 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 who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, breath, saliva or urine which is appropriate as determined by the Board for the purpose of determining its alcohol concentration or the presence or concentration of any other intoxicating substance therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of alcohol, or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

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

1. The tested person, or his or her attorney;
2. The Commissioner of Public Safety; and
3. The Fatality Analysis Reporting System (FARS) analyst of the state, upon request.

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

SECTION 14. AMENDATORY 47 O.S. 2011, Section 753, as last amended by Section 12, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 753), is amended to read as follows:

Section 753. A. If a conscious person under arrest refuses to submit to testing of his or her blood or breath for the purpose of determining the alcohol concentration thereof, or to a test of his or her blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, none shall be given except upon the issuance of a search warrant or unless the investigating officer has probable cause to believe that the person under arrest, while intoxicated, has operated the motor vehicle in such a manner as to have caused the death or serious physical injury of any other person or persons. In such event, such test otherwise authorized by law may be made in the same manner as if a search warrant had been issued for such test or tests. The sample shall be taken in a medically acceptable manner as authorized by Section 752 of this title. The Commissioner of Public Safety, upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or that the person had refused to submit to the test or tests, shall revoke the license to drive and any nonresident operating privilege for a period provided by Section 6-205.1 of this title. If the person is a resident or nonresident without a license or permit to operate a motor vehicle in this state, the Commissioner of Public Safety shall deny to the person the issuance of a license or permit for a period provided by Section 6-205.1 of this title subject to a review as provided in Section 754 of this title. The revocation or denial shall become effective thirty (30) days after the arrested person is given written notice thereof by the officer or by the Department of Public Safety as provided in Section 754 of this title.

~~B. It shall be a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000.00) and not more than ten (10)~~

~~days in jail, or by both fine and imprisonment, for a conscious person under arrest for driving while impaired, driving under the influence or while under the influence being in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one of more single or multi-family dwellings within this state to refuse to submit to a test of the breath of the person for the purpose of determining the alcohol concentration thereof~~

The Department shall immediately reinstate the driving privilege of the person if:

1. The arrested person was required to submit to the testing of his or her blood or breath pursuant to the provisions of a search warrant despite his or her refusal to submit to testing; and

2. The Department receives a written blood or breath test report that reflects the arrested person did not have any measurable quantity of alcohol, or any other intoxicating substance, or the combination of alcohol and any other intoxicating substance in the blood or breath of the arrested person.

SECTION 15. AMENDATORY 47 O.S. 2011, Section 754, as amended by Section 13, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 754), is amended to read as follows:

Section 754. A. Any arrested person who is under twenty-one (21) years of age and has any measurable quantity of alcohol in the person's blood or breath, or any person twenty-one (21) years of age or older whose alcohol concentration is eight-hundredths (0.08) or more as shown by a breath test administered according to the provisions of this title, or any arrested person who has refused to submit to a breath or blood test, shall immediately surrender his or her driver license, permit or other evidence of driving privilege to the arresting law enforcement officer. ~~Except in cases where the arrested person submitted to a test of their blood, the~~ The officer shall seize any driver license, permit, or other evidence of driving privilege surrendered by or found on the arrested person during a search. ~~The evidence of driving privilege seized by the officer shall be delivered to the Department of Public Safety. The~~

~~Department shall destroy the evidence of driving privilege upon receipt thereof.~~

B. If the evidence of driving privilege surrendered to or seized by the officer has not expired and otherwise appears valid, the officer shall issue to the arrested person a dated receipt for that driver license, permit, or other evidence of driving privilege on a form prescribed by the Department of Public Safety. This receipt shall be recognized as a ~~temporary restricted~~ driver license and shall authorize the arrested person to operate a motor vehicle for a period not to exceed ~~forty-five (45)~~ thirty (30) days. The receipt form shall contain and constitute a notice of revocation of driving privilege by the Department effective in thirty (30) days. The evidence of driving privilege and a copy of the receipt form issued to the arrested person shall be attached to the sworn report of the officer and shall be submitted by mail or in person to the Department within seventy-two (72) hours of the issuance of the receipt. The failure of the officer to timely file this report shall not affect the authority of the Department to revoke the driving privilege of the arrested person.

C. ~~When any alleged controlled dangerous substance has been submitted to the laboratory of the OSBI for analysis, and the analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of the substance shall be released to any other person or laboratory absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner~~ Upon receipt of a written blood or breath test report reflecting that the arrested person, if under twenty-one (21) years of age, had any measurable quantity of alcohol in the blood or breath of the person, or, if the arrested person is twenty-one (21) years of age or older, a blood or breath alcohol concentration of eight-hundredths (0.08) or more, accompanied by a sworn report from a law enforcement officer that the officer had reasonable grounds to believe the arrested person had been operating or was in actual physical control of a motor vehicle while under the influence of alcohol as prohibited by law, the Department shall revoke or deny the driving privilege of the arrested person for a period as provided by Section 6-205.1 of this title, unless the

person has successfully completed or is currently participating in the Impaired Driver Accountability Program. Revocation or denial of the driving privilege of the arrested person shall become effective thirty (30) days after the arrested person is given written notice thereof by the officer as provided in this section or by the Department as provided in Section 2-116 of this title.

D. The appeal hearing before the district court shall be conducted in accordance with Section 6-211 of this title. The hearing shall cover the issues of whether the officer had reasonable grounds to believe the person had been operating or was in actual physical control of a vehicle upon the public roads, highways, streets, turnpikes or other public place of this state while under the influence of alcohol, any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance as prohibited by law, and whether the person was placed under arrest.

1. If the revocation or denial is based upon a breath or blood test result and a sworn report from a law enforcement officer, the scope of the hearing shall also cover the issues as to whether:

- a. if timely requested by the person, the person was not denied a breath or blood test,
- b. the specimen was obtained from the person within two (2) hours of the arrest of the person,
- c. the person, if under twenty-one (21) years of age, was advised that driving privileges would be revoked or denied if the test result reflected the presence of any measurable quantity of alcohol,
- d. the person, if twenty-one (21) years of age or older, was advised that driving privileges would be revoked or denied if the test result reflected an alcohol concentration of eight-hundredths (0.08) or more, and
- e. the test result in fact reflects the alcohol concentration.

2. If the revocation or denial is based upon the refusal of the person to submit to a breath or blood test, reflected in a sworn report by a law enforcement officer, the scope of the hearing shall also include whether:

- a. the person refused to submit to the test or tests, and
- b. the person was informed that driving privileges would be revoked or denied if the person refused to submit to the test or tests.

E. After the hearing, the district court shall order the revocation or denial either rescinded or sustained.

SECTION 16. AMENDATORY 47 O.S. 2011, Section 754.1, as last amended by Section 14, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2018, Section 754.1), is amended to read as follows:

Section 754.1 A. Modification of a revocation or denial arising under the provisions of Section 6-205.1 of this title or under the provisions of Sections 751 through 754 or 761 of this title shall apply to Class D ~~motor vehicles~~ driver licenses only.

B. As a prerequisite and condition of any modification, the person shall be required to have installed an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the person's own expense, upon any motor vehicle operated by the person. ~~A person whose revocation is modified may only operate a motor vehicle equipped with an approved ignition interlock device.~~ The Department shall require, as a condition of modification, the device to be installed upon any vehicle owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the ~~person~~ employer, except when the employer requests the ignition interlock device not be installed. The request shall be in writing and notarized on the official letterhead of the employer and provided by the ~~employer~~ person to the Department; provided, a request shall not be accepted by the Department under the following circumstances:

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

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

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

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

C. Upon the issuance of a modification order pursuant to this section, Section 17 of this act, or under the provisions of paragraph 1, 2, or 3 of subsection A or paragraph 1, 2, or 3 of subsection B of Section 6-205.1 of this title, for a violation of this title, the person shall pay a modification fee of One Hundred Seventy-five Dollars (\$175.00) to the Department. For each modification fee collected pursuant to the provisions of this subsection, One Hundred Dollars (\$100.00) shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury and Seventy-five Dollars (\$75.00) shall be remitted to the State Treasurer to be credited to the Department of Public Safety Restricted Revolving Fund. All monies accruing to the credit of the Department of Public Safety Restricted Revolving Fund from modification fees shall be budgeted and expended solely for the purpose of administering the provisions of this section and Section 17 of this act.

D. The Board of Tests for Alcohol and Drug Influence shall promulgate such rules as are necessary to implement and administer the provisions of this subsection relating to ignition interlock devices and the providers of such devices.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 754.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

The district court shall modify, upon request, the revocation or denial occurring pursuant to Section 753 or 754 of Title 47 of the Oklahoma Statutes. The district court shall enter a written order directing the Department of Public Safety to allow driving, subject

to the limitations of Section 6-205.1 of Title 47 of the Oklahoma Statutes and the requirement of an ignition interlock device as provided in Section 754.1 of Title 47 of the Oklahoma Statutes; provided, any modification under this paragraph shall apply to Class D driver licenses only.

SECTION 18. This act shall become effective November 1, 2019.

Passed the Senate the 8th day of May, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____