An Act

ENROLLED HOUSE
BILL NO. 1441

By: Turner and Derby of the House

and

Standridge of the Senate

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 6-205.1, which relates to driver license revocation and denial of driving privileges; clarifying modification requirements; amending 47 O.S. 2011, Section 6-212.3, as amended by Section 6, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012, Section 6-212.3), which relates to ignition interlock devices; modifying conditions for which certain requests shall not be accepted; amending 47 O.S. 2011, Section 11-902, as last amended by Section 2 of Enrolled House Bill No. 1069 of the 1st Session of the 54th Oklahoma Legislature, which relates to penalties for driving under the influence; making certain acts unlawful; amending 47 O.S. 2011, Section 754.1, as amended by Section 14, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012, Section 754.1), which relates to driver license modification; modifying conditions for which certain requests shall not be accepted; repealing 47 O.S. 2011, Section 11-902, as last amended by Section 3 of Enrolled House Bill No. 1743 of the 1st Session of the 54th Oklahoma Legislature, which relates to a duplicate section of law pertaining to penalties for driving under the influence; and providing an effective date.

SUBJECT: Driving under the influence of intoxicating substances

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

SECTION 1. AMENDATORY 47 O.S. 2011, 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 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, 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 to Section 753 or 754 of this title shall be for one hundred eighty (180) days, which may be modified; provided, any modification under this paragraph shall apply to Class D motor vehicles only;

2. A revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title, or to Section 753 or 754 of this title shall be for a period of one (1) year <u>or longer if driving privileges are modified pursuant to the provisions of this paragraph</u> 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 to Section 753 or 754 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 <u>one-year</u> period <u>of revocation</u> may be modified; provided, any modification under this paragraph shall apply to Class D motor vehicles only. ~~Provided, further, whether or not the person is eligible for, applies for, or is granted a~~ <u>For any</u> modification, the person shall be required to install an ignition interlock device or devices, pursuant to Section 754.1 of this title~~, during the mandatory~~. <u>The</u> period of revocation <u>and the period of interlock installation shall run concurrently and each shall be for no less than one (1) year</u>; or

3. A revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title, or to Section 753 or 754 of this title shall be for a period of 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 to Section 753 or 754 of this title,

b. 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

c. any combination of two or more prior revocations or convictions as described in subparagraphs a and b of this paragraph.

Such three-year period of revocation may be modified; provided, any modification under this paragraph shall apply to Class D motor vehicles only. ~~Provided, further, whether or not the person is eligible for, applies for, or is granted a~~ For any modification, the person shall be required to install an ignition interlock device or devices, pursuant to Section 754.1 of this title~~, during the mandatory~~. The period of revocation and the period of interlock installation shall 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 be modified; 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 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 under Section 753 or 754 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 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 under Section 753 or 754 of this title,

b. 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

c. any combination of two or more prior revocations as described in subparagraphs a and b or 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 if the person was not eligible to do so at the time of the conviction.

C. For the purposes of this subsection:

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 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, may be modified as provided for in Section 754.1 or 755 of this title; provided, any modification under this paragraph shall apply to Class D motor vehicles only.

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

SECTION 2. AMENDATORY 47 O.S. 2011, Section 6-212.3, as amended by Section 6, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012, Section 6-212.3), is amended to read as follows:

Section 6-212.3 A. Whenever the records of the Department of Public Safety reflect the revocation of the driving privilege of a person as provided in subsection A of Section 6-205.1 of this title, the Department shall require the installation of an ignition interlock device, at the expense of the person, as provided in subsection D of this section, after the mandatory period of revocation, as prescribed by Section 6-205.1 of this title, for the following period, as applicable:

1. For a first revocation and if the person refused to submit to a test or tests, or had a blood or breath alcohol concentration of fifteen hundredths (0.15) or more, for a period of one and one-

half (1 1/2) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer;

2. For a second revocation, for a period of four (4) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer; or

3. For a third or subsequent revocation, for a period of five (5) years following the mandatory period of revocation or until the driving privileges of the person are reinstated, whichever is longer.

B. Whenever the records of the Department of Public Safety reflect a person is classified as an excessive user of alcohol or of a combination of alcohol and any other intoxicating substance, and inimical to public safety, in accordance with rules promulgated by the Department, the person shall, upon request for reinstatement of driving privileges from revocation or suspension based upon the conviction or the status as an excessive user, provide proof of installation of an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, at the expense of the person, as provided in subsection D of this section.

C. The Department shall require, as a condition of reinstatement, 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 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; ~~or~~

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 to Section 753 or 754 of this title.

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

D. 1. The requirements of subsection A or B, as applicable, of this section shall be a prerequisite and condition for reinstatement of driving privileges, in addition to other conditions for driving privilege reinstatement provided by law or by rule of the Department. 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 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 ignition interlock 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 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 subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

E. Installation of an ignition interlock device pursuant to subsection A or B of this section shall run concurrently with a court order, if any, for installation of an ignition interlock device, or devices pursuant to the same conviction.

F. The person shall pay the monthly maintenance fee, not to exceed Twenty-five Dollars ($25.00) per month, for each ignition interlock device installed pursuant to this section. The person shall comply with all provisions of law regarding ignition interlock devices.

G. The ignition interlock device provider shall make available to the Department regular reports of violations, if any, for each ignition interlock device installed pursuant to this section.

H. Pursuant to Section 6-113 of this title, the Department may revoke or suspend the driving privileges of the person for reports from the provider which indicate attempts by the person to operate a motor vehicle when the person is under the influence of alcohol.

I. The Department shall promulgate rules necessary to implement and administer this section.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 11-902, as last amended by Section 2 of Enrolled House Bill No. 1069 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

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

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

2. Is under the influence of alcohol;

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

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

~~4.~~ 5. Is under the combined influence of alcohol and any other intoxicating substance which may render such person incapable of safely driving or operating a motor vehicle.

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

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

a. participate in an assessment and evaluation pursuant to subsection G of this section and shall follow all recommendations made in the assessment and evaluation,

b. be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and

c. be fined not more than One Thousand Dollars ($1,000.00).

2. Any person who, during the period of any court-imposed probationary term or within ten (10) years of the date following the completion of the execution of any sentence or deferred judgment for a violation of this section or a violation pursuant to the provisions of any law of this state or another state prohibiting the offenses provided in subsection A of this section, Section 11-904 of this title or paragraph 4 of subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes, commits a second offense pursuant to the provisions of this section or has a prior conviction in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of the date following the completion of the execution of such sentence or deferred judgment commits a second offense pursuant to the provisions of this section shall, upon conviction, be guilty of a felony and shall participate in an assessment and evaluation pursuant to subsection G of this section and shall be sentenced to:

a. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense, or

b. placement in the custody of the Department of Corrections for not less than one (1) year and not to

exceed five (5) years and a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00), or

c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

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

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

a. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense, two hundred forty (240) hours of community service and use of an ignition interlock device, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes, or

b. placement in the custody of the Department of Corrections for not less than one (1) year and not to exceed ten (10) years and a fine of not more than Five Thousand Dollars ($5,000.00), or

c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

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

4. Any person who is convicted of a third or subsequent felony offense pursuant to the provisions of this section or a violation pursuant to the provisions of any law of this state or another state

prohibiting the offenses provided for in subsection A of this section, Section 11-904 of this title or paragraph 4 of subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes shall participate in an assessment and evaluation pursuant to subsection G of this section and shall be sentenced to:

a. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense, followed by not less than one (1) year of supervision and periodic testing at the defendant's expense, four hundred eighty (480) hours of community service, and use of an ignition interlock device, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes, for a minimum of thirty (30) days, or

b. placement in the custody of the Department of Corrections for not less than one (1) year and not to exceed twenty (20) years and a fine of not more than Five Thousand Dollars ($5,000.00), or

c. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph.

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

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

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

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

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

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

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

Nothing in this subsection shall preclude the defendant from being charged or punished as provided in paragraph 1, 2, 3, 4 or 5 of subsection C of this section. Any person who is convicted pursuant to the provisions of this subsection shall be guilty of a misdemeanor for a first offense and shall be punished as provided in paragraph 1 of subsection C of this section. Any person who, during the period of any court-imposed probationary term or within ten (10) years of the completion of the execution of any sentence or deferred judgment, commits a second violation of this subsection shall, upon conviction, be guilty of a felony and shall be punished as provided in paragraph 2 of subsection C of this section. Any person who commits a second felony offense pursuant to this subsection shall, upon conviction, be guilty of a felony and shall be punished as provided in paragraph 3 of subsection C of this section. Any person who commits a third or subsequent felony offense pursuant to the provisions of this subsection shall, upon conviction, be guilty of a felony and shall be punished as provided in paragraph 4 of subsection C of this section.

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

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

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

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

G. Any person who is found guilty of a violation of the provisions of this section shall be ordered to participate in an alcohol and drug substance abuse evaluation and assessment program offered by a certified assessment agency or certified assessor for the purpose of evaluating and assessing the receptivity to treatment and prognosis of the person and shall follow all recommendations made in the assessment and evaluation for treatment. The court shall order the person to reimburse the agency or assessor for the evaluation and assessment. Payment shall be remitted by the defendant or on behalf of the defendant by any third party; provided, no state-appropriated funds are utilized. The fee for an evaluation and assessment shall be the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation and assessment shall be conducted at a certified assessment agency, the office of a certified assessor or at another location as ordered by the court. The agency or assessor shall, within seventy-two (72) hours from the time the person is evaluated and assessed, submit a written report to the court for the purpose of assisting the court in its sentencing determination. The court shall, as a condition of any sentence imposed, including deferred

and suspended sentences, require the person to participate in and successfully complete all recommendations from the evaluation, such as an alcohol and substance abuse treatment program pursuant to Section 3-452 of Title 43A of the Oklahoma Statutes. If such report indicates that the evaluation and assessment shows that the defendant would benefit from a ten-hour or twenty-four-hour alcohol and drug substance abuse course or a treatment program or both, the court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to follow all recommendations identified by the evaluation and assessment and ordered by the court. No person, agency or facility operating an evaluation and assessment program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated and assessed pursuant to this section for any treatment program or substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or substance abuse service offered by such person, agency or facility. If a person is sentenced to imprisonment in the custody of the Department of Corrections and the court has received a written evaluation report pursuant to the provisions of this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation and assessment report submitted to the court pursuant to the provisions of this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation and assessment required by this subsection. If the defendant fails or refuses to comply with an order of the court to obtain the evaluation and assessment, the Department of Public Safety shall not reinstate driving privileges until the defendant has complied in full with such order. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction authorized by law for failure or refusal to comply with an order of the court.

H. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, as defined in subsection H of Section 991a of Title 22 of the Oklahoma Statutes, if such a program is offered in the county where the judgment is rendered, and to pay a fee~~,~~ of not less than Fifteen Dollars ($15.00) nor more than ~~Twenty-~~

~~five Dollars ($25.00)~~ Sixty Dollars ($60.00) as set by the governing authority of the program and approved by the court~~,~~ to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

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

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

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

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

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

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

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

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

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

SECTION 4. AMENDATORY 47 O.S. 2011, Section 754.1, as amended by Section 14, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012, Section 754.1), is amended to read as follows:

Section 754.1 A. The Department of Public Safety, prior to an administrative hearing for a revocation or denial arising under the provisions of Sections 751 through 754 or Section 761 of this title or under the provisions of Section 6-205.1 of this title, may modify the revocation or denial when it is determined by the Department that no other adequate means of transportation exists for the person whose driving privilege has been revoked or denied; provided, any modification under this paragraph shall apply to Class D motor vehicles 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 every motor vehicle operated by the person. 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, 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 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; ~~or~~

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 or Section 755 of this title, 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 755 of this title.

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 5. REPEALER 47 O.S. 2011, Section 11-902, as last amended by Section 3 of Enrolled House Bill No. 1743 of the 1st Session of the 54th Oklahoma Legislature, is hereby repealed.

SECTION 6. This act shall become effective October 1, 2013.

Passed the House of Representatives the 23rd day of May, 2013.

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of May, 2013.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 24th

day of May, 20 13, at 9:18 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 31st

day of May, 20 13, at 10:24 o'clock A M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 31st

day of May, 20 13, at 1:12 o'clock P. M.

By: Chris Morris