

1 **SENATE FLOOR VERSION**

2 February 19, 2025

3 COMMITTEE SUBSTITUTE

FOR

4 SENATE BILL NO. 54

By: Weaver

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7 An Act relating to motor vehicle safety; amending 47
8 O.S. 2021, Section 11-902, which relates to persons
9 under the influence of alcohol or other intoxicating
10 substance; modifying sentencing provisions for
certain violations; modifying scope of certain
offense; modifying scope of penalties for certain
offense; updating statutory language and references;
and providing an effective date.

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

14 SECTION 1. AMENDATORY 47 O.S. 2021, Section 11-902, is

15 amended to read as follows:

16 Section 11-902. A. It is unlawful and punishable as provided

17 for in this section for any person to drive, operate, or be in

18 actual physical control of a motor vehicle within this state,

19 whether upon public roads, highways, streets, turnpikes, other

20 public places or upon any private road, street, alley, or lane which

21 provides access to one or more single or multi-family dwellings,

22 who:

23 1. Has a blood or breath alcohol concentration, as defined in

24 Section 756 of this title, of eight-hundredths (0.08) or more at the

1 time of a test of such person's blood or breath ~~administered within~~
2 ~~two (2) hours after the arrest of such person;~~

3 2. Is under the influence of alcohol;

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

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

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

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

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

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

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

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

- b. placement use of an ignition interlock device, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes,
- c. imprisonment in the custody of the Department of Corrections for not less than one (1) year and not to exceed more than five (5) years, and
- d. a fine ~~of~~ not more than Two Thousand Five Hundred Dollars (\$2,500.00), or
- e. ~~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 commits a violation of this section after having been convicted of a felony offense pursuant to the provisions of this section or a violation pursuant to the provisions of any law of this state or another state prohibiting the offenses provided for in this section, Section 11-904 of this title, or paragraph 4 of subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes shall be guilty of a felony and participate in an assessment and

1 evaluation pursuant to subsection G H of this section and shall be
2 sentenced to:

- 3 a. follow all recommendations made in the assessment and
4 evaluation for treatment at the defendant's expense,
- 5 b. two hundred forty (240) hours of community service,
6 and
- 7 c. use of an ignition interlock device, as provided by
8 subparagraph n of paragraph 1 of subsection A of
9 Section 991a of Title 22 of the Oklahoma Statutes, ~~or~~
- 10 b. ~~placement~~
- 11 d. imprisonment in the custody of the Department of
12 Corrections for not less than one (1) year and not ~~to~~
13 exceed more than ten (10) years, and
- 14 e. a fine ~~of~~ not more than Five Thousand Dollars
15 (\$5,000.00), ~~or~~
- 16 e. ~~treatment, imprisonment and a fine within the~~
17 ~~limitations prescribed in subparagraphs a and b of~~
18 ~~this paragraph.~~

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

23 4. Any person who commits a violation of this section after
24 having been twice convicted of a felony offense pursuant to the

provisions of this section or a violation pursuant to the provisions
of any law of this state or another state prohibiting the offenses
provided for in this section, Section 11-904 of this title,_ or
paragraph 4 of subsection A of Section 852.1 of Title 21 of the
Oklahoma Statutes shall be guilty of a felony and participate in an
assessment and evaluation pursuant to subsection G H of this section
and shall be sentenced to:

- a. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense, followed by not less than one (1) year of supervision and periodic testing, as provided in subparagraph q of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes, at the defendant's expense,
- b. four hundred eighty (480) hours of community service,
and
- c. use of an ignition interlock device, as provided by subparagraph n of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes, for a minimum of thirty (30) ninety (90) days, ~~or~~
- b. placement
- d. imprisonment in the custody of the Department of Corrections for not less than one (1) year and not ~~to~~ exceed more than twenty (20) years,_ and

1 e. a fine ~~of~~ not more than Five Thousand Dollars
2 (\$5,000.00), ~~or~~
3 e. ~~treatment, imprisonment and a fine within the~~
4 ~~limitations prescribed in subparagraphs a and b of~~
5 ~~this paragraph.~~

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

9 5. Any person who, after a previous conviction of a violation
10 of murder in the second degree or manslaughter in the first degree
11 in which the death was caused as a result of driving under the
12 influence of alcohol or other intoxicating substance, is convicted
13 of a violation of this section shall be guilty of a felony and shall
14 be punished by imprisonment in the custody of the Department of
15 Corrections for not less than five (5) years and not to exceed
16 twenty (20) years, and a fine ~~of~~ not more than Ten Thousand Dollars
17 (\$10,000.00).

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

22 7. In any case in which a defendant is charged with driving
23 under the influence of alcohol or other intoxicating substance
24 offense within any municipality with a municipal court other than a

1 court of record, the charge shall be presented to the county's
2 district attorney and filed with the district court of the county
3 within which the municipality is located.

4 D. Any person who is convicted of a violation of driving under
5 the influence ~~with a~~ while also committing one of more of the
6 following acts:

7 1. Driving, operating, or being in actual physical control of a
8 motor vehicle while having a blood or breath alcohol concentration
9 of fifteen-hundredths (0.15) or more pursuant to this section at the
10 time of a test of such person's blood or breath;

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

14 3. Driving in a manner that violates the provisions of Section
15 11-301, 11-302, 11-306, 11-309, or 11-311 of this title;

16 4. Driving while eluding peace officers pursuant to Section
17 540a of Title 21 of the Oklahoma Statutes;

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

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

23 7. Reckless driving as defined in Section 11-901 of this title,

1 shall be deemed, upon conviction, be guilty of aggravated driving
2 under the influence, which shall be a felony offense.

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

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

11 a. for a first offense of a violation pursuant to this
12 section, the first ten (10) days of the sentence shall
13 not be subject to probation, suspension, or deferral
14 and may be served by night or weekend incarceration
15 pursuant to Section 991a of Title 22 of the Oklahoma
16 Statutes,

17 b. for a second offense of a violation pursuant to this
18 section, the first thirty (30) days of the sentence
19 shall not be subject to probation, suspension, or
20 deferral; provided further, this mandatory minimum
21 period of confinement shall be served in the county
22 jail as a condition of a suspended or deferred
23 sentence, pursuant to Section 991a of Title 22 of the
24 Oklahoma Statutes, and

1 c. the portion of the sentence not subject to probation,
2 suspension, or deferral shall increase by thirty (30)
3 days for each subsequent conviction after the second
4 offense;

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

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

11 2. 4. An ignition interlock device or devices, as provided by
12 subparagraph n of paragraph 1 of subsection A of Section 991a of
13 Title 22 of the Oklahoma Statutes, for a minimum of ninety (90) one
14 hundred eighty (180) days.

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

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

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

9 F. G. ~~The Department of Public Safety Service Oklahoma~~ is
10 hereby authorized to reinstate any suspended or revoked driving
11 privilege when the person meets the statutory requirements which
12 affect the existing driving privilege.

13 G. H. Any person who is found guilty of a violation of the
14 provisions of this section shall be ordered to participate in an
15 alcohol and drug substance abuse evaluation and assessment program
16 offered by a certified assessment agency or certified assessor for
17 the purpose of evaluating and assessing the receptivity to treatment
18 and prognosis of the person and shall follow all recommendations
19 made in the assessment and evaluation for treatment. The court
20 shall order the person to reimburse the agency or assessor for the
21 evaluation and assessment. Payment shall be remitted by the
22 defendant or on behalf of the defendant by any third party~~,~~
23 provided~~,~~ no state-appropriated funds are utilized. The fee for an
24 evaluation and assessment shall be the amount provided in subsection

1 C of Section 3-460 of Title 43A of the Oklahoma Statutes. The
2 evaluation and assessment shall be conducted at a certified
3 assessment agency, the office of a certified assessor,_ or at another
4 location as ordered by the court. The agency or assessor shall,
5 within seventy-two (72) hours from the time the person is evaluated
6 and assessed, submit a written report to the court for the purpose
7 of assisting the court in its sentencing determination. The court
8 shall, as a condition of any sentence imposed, including deferred
9 and suspended sentences, require the person to participate in and
10 successfully complete all recommendations from the evaluation, such
11 as an alcohol and substance abuse treatment program pursuant to
12 Section 3-452 of Title 43A of the Oklahoma Statutes. If such report
13 indicates that the evaluation and assessment shows that the
14 defendant would benefit from a ten-hour or twenty-four-hour alcohol
15 and drug substance abuse course or a treatment program or both, the
16 court shall, as a condition of any sentence imposed, including
17 deferred and suspended sentences, require the person to follow all
18 recommendations identified by the evaluation and assessment and
19 ordered by the court. No person, agency,_ or facility operating an
20 evaluation and assessment program certified by the Department of
21 Mental Health and Substance Abuse Services shall solicit or refer
22 any person evaluated and assessed pursuant to this section for any
23 treatment program or substance abuse service in which such person,
24 agency,_ or facility has a vested interest; however, this provision

1 shall not be construed to prohibit the court from ordering
2 participation in or any person from voluntarily utilizing a
3 treatment program or substance abuse service offered by such person,
4 agency, or facility. If a person is sentenced to imprisonment in
5 the custody of the Department of Corrections and the court has
6 received a written evaluation report pursuant to the provisions of
7 this subsection, the report shall be furnished to the Department of
8 Corrections with the judgment and sentence. Any evaluation and
9 assessment report submitted to the court pursuant to the provisions
10 of this subsection shall be handled in a manner which will keep such
11 report confidential from the general public's review. Nothing
12 contained in this subsection shall be construed to prohibit the
13 court from ordering judgment and sentence in the event the defendant
14 fails or refuses to comply with an order of the court to obtain the
15 evaluation and assessment required by this subsection. If the
16 defendant fails or refuses to comply with an order of the court to
17 obtain the evaluation and assessment, ~~the Department of Public~~
18 ~~Safety Service Oklahoma~~ shall not reinstate driving privileges until
19 the defendant has complied in full with such order. Nothing
20 contained in this subsection shall be construed to prohibit the
21 court from ordering judgment and sentence and any other sanction
22 authorized by law for failure or refusal to comply with an order of
23 the court.

24

1 H. I. Any person who is found guilty of a violation of the
2 provisions of this section shall be required by the court to attend
3 a victims impact panel program, as defined in subsection H of
4 Section 991a of Title 22 of the Oklahoma Statutes, if such a program
5 is offered in the county where the judgment is rendered, and to pay
6 a fee of Seventy-five Dollars (\$75.00), as set by the governing
7 authority of the program and approved by the court, to the program
8 to offset the cost of participation by the defendant, if in the
9 opinion of the court the defendant has the ability to pay such fee.

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

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

18 K. L. When a person is found guilty of a violation of the
19 provisions of this section, the court shall order, in addition to
20 any other penalty, the defendant to pay ~~a one hundred dollar~~
21 ~~assessment~~ an assessment of One Hundred Dollars (\$100.00) to be
22 deposited in the Drug Abuse Education and Treatment Revolving Fund
23 created in Section 2-503.2 of Title 63 of the Oklahoma Statutes,
24 upon collection.

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

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

13 M. N. Any plea of guilty, nolo contendere, or finding of guilt
14 for a violation of this section or a violation pursuant to the
15 provisions of any law of this state or another state prohibiting the
16 offenses provided for in this section, Section 11-904 of this title,
17 or paragraph 4 of subsection A of Section 852.1 of Title 21 of the
18 Oklahoma Statutes, shall constitute a conviction of the offense for
19 the purpose of this section; provided, any deferred judgment shall
20 only be considered to constitute a conviction for a period of ten
21 (10) years following the completion of any court-imposed
22 probationary term.

23 N. O. If qualified by knowledge, skill, experience, training,
24 or education, a witness shall be allowed to testify in the form of

1 an opinion or otherwise solely on the issue of impairment, but not
2 on the issue of specific alcohol concentration level, relating to
3 the following:

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

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

14 SECTION 2. This act shall become effective November 1, 2025.

15 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
16 February 19, 2025 - DO PASS AS AMENDED BY CS