

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 ENGROSSED SENATE
5 BILL NO. 54

By: Weaver of the Senate

6 and

7 George and **Manger** of the
House

8

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

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

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

20 amended to read as follows:

21 Section 11-902. A. It is unlawful and punishable as provided
22 for in this section for any person to drive, operate, or be in
23 actual physical control of a motor vehicle within this state,
24 whether upon public roads, highways, streets, turnpikes, other
 public places or upon any private road, street, alley,_ or lane which

1 provides access to one or more single or multi-family dwellings,
2 who:

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

7 2. Is under the influence of alcohol;

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

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

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

21 B. The fact that any person charged with a violation of this
22 section is or has been lawfully entitled to use alcohol or a
23 controlled dangerous substance or any other intoxicating substance

1 shall not constitute a defense against any charge of violating this
2 section.

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

- 6 a. participate in an assessment and evaluation pursuant
7 to subsection G H of this section and shall follow all
8 recommendations made in the assessment and evaluation,
- 9 b. be punished by imprisonment in jail for not less than
10 ten (10) days nor more than one (1) year, and
- 11 c. be fined not more than One Thousand Dollars
12 (\$1,000.00).

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

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

- 3 a. follow all recommendations made in the assessment and
4 evaluation for treatment at the defendant's expense,
5 or
- 6 b. placement use of an ignition interlock device, as
7 provided by subparagraph n of paragraph 1 of
8 subsection A of Section 991a of Title 22 of the
9 Oklahoma Statutes,
- 10 c. imprisonment in the custody of the Department of
11 Corrections for not less than one (1) year and not ~~to~~
12 ~~exceed more than~~ five (5) years, and
- 13 d. a fine ~~of~~ not more than Two Thousand Five Hundred
14 Dollars (\$2,500.00), or
- 15 e. ~~treatment, imprisonment, and a fine within the~~
16 ~~limitations prescribed in subparagraphs a and b of~~
17 ~~this paragraph.~~

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

22 3. Any person who commits a violation of this section after
23 having been convicted of a felony offense pursuant to the provisions
24 of this section or a violation pursuant to the provisions of any law

1 of this state or another state prohibiting the offenses provided for
2 in this section, Section 11-904 of this title,L or paragraph 4 of
3 subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes
4 shall be guilty of a felony and participate in an assessment and
5 evaluation pursuant to subsection G H of this section and shall be
6 sentenced to:

- 7 a. follow all recommendations made in the assessment and
8 evaluation for treatment at the defendant's expense,
- 9 b. two hundred forty (240) hours of community service,
10 and
- 11 c. use of an ignition interlock device, as provided by
12 subparagraph n of paragraph 1 of subsection A of
13 Section 991a of Title 22 of the Oklahoma Statutes, ~~or~~
- 14 b. ~~placement~~
- 15 d. imprisonment in the custody of the Department of
16 Corrections for not less than one (1) year and not ~~to~~
17 exceed more than ten (10) years, L and
- 18 e. a fine ~~of~~ not more than Five Thousand Dollars
19 (\$5,000.00), ~~or~~
- 20 e. ~~treatment, imprisonment and a fine within the~~
21 ~~limitations prescribed in subparagraphs a and b of~~
22 ~~this paragraph.~~

23 However, if the treatment in subsection G H of this section does
24 not include residential or inpatient treatment for a period of not

1 less than ten (10) days, the person shall serve a term of
2 imprisonment of at least ten (10) days.

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

12 a. follow all recommendations made in the assessment and
13 evaluation for treatment at the defendant's expense,
14 followed by not less than one (1) year of supervision
15 and periodic testing, as provided in subparagraph q of
16 paragraph 1 of subsection A of Section 991a of Title
17 22 of the Oklahoma Statutes, at the defendant's
18 expense,

19 b. four hundred eighty (480) hours of community service,
20 and

21 c. use of an ignition interlock device, as provided by
22 subparagraph n of paragraph 1 of subsection A of
23 Section 991a of Title 22 of the Oklahoma Statutes, for
24 a minimum of ~~thirty~~ (30) ninety (90) days, or

1 b. placement

2 d. imprisonment in the custody of the Department of
3 Corrections for not less than one (1) year and not to

4 exceed more than twenty (20) years, and

5 e. a fine of not more than Five Thousand Dollars
6 (\$5,000.00), or

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

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

13 5. Any person who, after a previous conviction of a violation
14 of murder in the second degree or manslaughter in the first degree
15 in which the death was caused as a result of driving under the
16 influence of alcohol or other intoxicating substance, is convicted
17 of a violation of this section shall be guilty of a felony and shall
18 be punished by imprisonment in the custody of the Department of
19 Corrections for not less than five (5) years and not to exceed
20 twenty (20) years, and a fine of not more than Ten Thousand Dollars
21 (\$10,000.00).

22 6. Provided, however, a conviction from another state shall not
23 be used to enhance punishment pursuant to the provisions of this

1 subsection if that conviction is based on a blood or breath alcohol
2 concentration of less than eight-hundredths (0.08).

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

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

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

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

19 3. Driving in a manner that violates the provisions of Section
20 11-301, 11-302, 11-306, 11-309, or 11-311 of this title;

21 4. Driving while eluding peace officers pursuant to Section
22 540a of Title 21 of the Oklahoma Statutes;

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

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

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

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

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

17 a. for a first offense of a violation pursuant to this
18 section, the first ten (10) days of the sentence shall
19 not be subject to probation, suspension, or deferral
20 and may be served by night or weekend incarceration
21 pursuant to Section 991a of Title 22 of the Oklahoma
22 Statutes,

23 b. for a second offense of a violation pursuant to this
24 section, the first thirty (30) days of the sentence

1 shall not be subject to probation, suspension, or
2 deferral; provided further, this mandatory minimum
3 period of confinement shall be served in the county
4 jail as a condition of a suspended or deferred
5 sentence, pursuant to Section 991a of Title 22 of the
6 Oklahoma Statutes, and

7 c. the portion of the sentence not subject to probation,
8 suspension, or deferral shall increase by thirty (30)
9 days for each subsequent conviction after the second
10 offense;

11 2. A fine pursuant to paragraph 1, 2, 3, 4, or 5 of subsection

12 C of this section;

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

17 2. 4. An ignition interlock device or devices, as provided by
18 subparagraph n of paragraph 1 of subsection A of Section 991a of
19 Title 22 of the Oklahoma Statutes, for a minimum of ninety (90) one
20 hundred eighty (180) days.

21 E. F. When a person is sentenced to imprisonment in the custody
22 of the Department of Corrections, the person shall be processed
23 through the Lexington Assessment and Reception Center or at a place
24 determined by the Director of the Department of Corrections. The

1 Department of Corrections shall classify and assign the person to
2 one or more of the following:

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

6 2. A correctional facility operated by the Department of
7 Corrections with assignment to substance abuse treatment.

8 Successful completion of a Department-of-Corrections-approved
9 substance abuse treatment program shall satisfy the recommendation
10 for a ten-hour or twenty-four-hour alcohol and drug substance abuse
11 course or treatment program or both. Successful completion of an
12 approved Department of Corrections substance abuse treatment program
13 may precede or follow the required assessment.

14 F. G. ~~The Department of Public Safety Service Oklahoma is~~
15 hereby authorized to reinstate any suspended or revoked driving
16 privilege when the person meets the statutory requirements which
17 affect the existing driving privilege.

18 G. H. Any person who is found guilty of a violation of the
19 provisions of this section shall be ordered to participate in an
20 alcohol and drug substance abuse evaluation and assessment program
21 offered by a certified assessment agency or certified assessor for
22 the purpose of evaluating and assessing the receptivity to treatment
23 and prognosis of the person and shall follow all recommendations
24 made in the assessment and evaluation for treatment. The court

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

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

1 contained in this subsection shall be construed to prohibit the
2 court from ordering judgment and sentence and any other sanction
3 authorized by law for failure or refusal to comply with an order of
4 the court.

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

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

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

22 K. L. When a person is found guilty of a violation of the
23 provisions of this section, the court shall order, in addition to
24 any other penalty, the defendant to pay ~~a one hundred dollar~~

1 assessment an assessment of One Hundred Dollars (\$100.00) to be
2 deposited in the Drug Abuse Education and Treatment Revolving Fund
3 created in Section 2-503.2 of Title 63 of the Oklahoma Statutes,
4 upon collection.

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

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

17 M. N. Any plea of guilty, nolo contendere, or finding of guilt
18 for a violation of this section or a violation pursuant to the
19 provisions of any law of this state or another state prohibiting the
20 offenses provided for in this section, Section 11-904 of this title,
21 or paragraph 4 of subsection A of Section 852.1 of Title 21 of the
22 Oklahoma Statutes, shall constitute a conviction of the offense for
23 the purpose of this section; provided, any deferred judgment shall
24 only be considered to constitute a conviction for a period of ten

1 (10) years following the completion of any court-imposed
2 probationary term.

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

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

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

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

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20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY
OVERSIGHT, dated 04/17/2025 - DO PASS, As Coauthored.
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