

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1605

 By: Enns

7 AS INTRODUCED

8 An Act relating to driving under the influence;
9 creating the Debra Reed Act; amending 22 O.S. 2011,
10 Section 991a, as last amended by Section 1, Chapter
11 157, O.S.L. 2014 (22 O.S. Supp. 2016, Section 991a),
12 which relates to sentencing powers of the court;
13 adding certain sentencing requirement; amending 37
14 O.S. 2011, Sections 537 and 538, as amended by
15 Sections 12 and 14, Chapter 298, O.S.L. 2014 (37 O.S.
16 Supp. 2016, Sections 537 and 538) and Section 141,
17 Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016,
18 Section 6-101), which relate to prohibited acts
19 involving alcoholic beverages; making certain acts
20 unlawful; providing penalties; making certain terms
21 gender neutral; amending 47 O.S. 2011, Section 6-
22 107.1 and 6-107.2, which relate to the cancellation
23 of driving privileges; modifying denial and
24 cancellation periods for certain persons; deleting
 certain cancellation requirement; amending 47 O.S.
 2011, Section 6-111, as last amended by Section 1,
 Chapter 214, O.S.L. 2016 (47 O.S. Supp. 2016, Section
 6-111), which relates to the issuance of driver
 licenses and identification cards; directing the
 Department of Public Safety to develop procedures for
 issuing certain replacement licenses and
 identification cards; requiring certain designation
 on driver licenses and identification cards for
 certain persons; providing for replacement driver
 licenses and identification cards; amending 47 O.S.
 2011, Section 6-205.1, as amended by Section 1,
 Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016, Section
 6-205.1), which relates to driver license revocation
 periods; modifying revocation periods for certain
 persons; amending 47 O.S. 2011, Section 11-906.4,

1 which relates to driving under the influence while
2 under age; modifying statutory references; providing
3 for codification; providing for noncodification; and
4 providing effective dates.

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

6 SECTION 1. NEW LAW A new section of law not to be
7 codified in the Oklahoma Statutes reads as follows:

8 This act shall be known and may be cited as the "Debra Reed
9 Act".

10 SECTION 2. AMENDATORY 22 O.S. 2011, Section 991a, as
11 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
12 2016, Section 991a), is amended to read as follows:

13 Section 991a. A. Except as otherwise provided in the Elderly
14 and Incapacitated Victim's Protection Program, when a defendant is
15 convicted of a crime and no death sentence is imposed, the court
16 shall either:

17 1. Suspend the execution of sentence in whole or in part, with
18 or without probation. The court, in addition, may order the
19 convicted defendant at the time of sentencing or at any time during
20 the suspended sentence to do one or more of the following:

21 a. to provide restitution to the victim as provided by
22 Section 991f et seq. of this title or according to a
23 schedule of payments established by the sentencing
24 court, together with interest upon any pecuniary sum

1 at the rate of twelve percent (12%) per annum, if the
2 defendant agrees to pay such restitution or, in the
3 opinion of the court, if the defendant is able to pay
4 such restitution without imposing manifest hardship on
5 the defendant or the immediate family and if the
6 extent of the damage to the victim is determinable
7 with reasonable certainty,

8 b. to reimburse any state agency for amounts paid by the
9 state agency for hospital and medical expenses
10 incurred by the victim or victims, as a result of the
11 criminal act for which such person was convicted,
12 which reimbursement shall be made directly to the
13 state agency, with interest accruing thereon at the
14 rate of twelve percent (12%) per annum,

15 c. to engage in a term of community service without
16 compensation, according to a schedule consistent with
17 the employment and family responsibilities of the
18 person convicted,

19 d. to pay a reasonable sum into any trust fund,
20 established pursuant to the provisions of Sections 176
21 through 180.4 of Title 60 of the Oklahoma Statutes,
22 and which provides restitution payments by convicted
23 defendants to victims of crimes committed within this
24

1 state wherein such victim has incurred a financial
2 loss,

3 e. to confinement in the county jail for a period not to
4 exceed six (6) months,

5 f. to confinement as provided by law together with a term
6 of post-imprisonment community supervision for not
7 less than three (3) years of the total term allowed by
8 law for imprisonment, with or without restitution;
9 provided, however, the authority of this provision is
10 limited to Section 843.5 of Title 21 of the Oklahoma
11 Statutes when the offense involved sexual abuse or
12 sexual exploitation; Sections 681, 741 and 843.1 of
13 Title 21 of the Oklahoma Statutes when the offense
14 involved sexual abuse or sexual exploitation; and
15 Sections 865 et seq., 885, 886, 888, 891, 1021,
16 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
17 1123 of Title 21 of the Oklahoma Statutes,

18 g. to repay the reward or part of the reward paid by a
19 local certified crime stoppers program and the
20 Oklahoma Reward System. In determining whether the
21 defendant shall repay the reward or part of the
22 reward, the court shall consider the ability of the
23 defendant to make the payment, the financial hardship
24 on the defendant to make the required payment, and the

1 importance of the information to the prosecution of
2 the defendant as provided by the arresting officer or
3 the district attorney with due regard for the
4 confidentiality of the records of the local certified
5 crime stoppers program and the Oklahoma Reward System.
6 The court shall assess this repayment against the
7 defendant as a cost of prosecution. The term
8 "certified" means crime stoppers organizations that
9 annually meet the certification standards for crime
10 stoppers programs established by the Oklahoma Crime
11 Stoppers Association to the extent those standards do
12 not conflict with state statutes. The term "court"
13 refers to all municipal and district courts within
14 this state. The "Oklahoma Reward System" means the
15 reward program established by Section 150.18 of Title
16 74 of the Oklahoma Statutes,

17 h. to reimburse the Oklahoma State Bureau of
18 Investigation for costs incurred by that agency during
19 its investigation of the crime for which the defendant
20 pleaded guilty, nolo contendere or was convicted,
21 including compensation for laboratory, technical, or
22 investigation services performed by the Bureau if, in
23 the opinion of the court, the defendant is able to pay
24 without imposing manifest hardship on the defendant,

1 and if the costs incurred by the Bureau during the
2 investigation of the defendant's case may be
3 determined with reasonable certainty,

4 i. to reimburse the Oklahoma State Bureau of
5 Investigation and any authorized law enforcement
6 agency for all costs incurred by that agency for
7 cleaning up an illegal drug laboratory site for which
8 the defendant pleaded guilty, nolo contendere or was
9 convicted. The court clerk shall collect the amount
10 and may retain five percent (5%) of such monies to be
11 deposited in the Court Clerk Revolving Fund to cover
12 administrative costs and shall remit the remainder to
13 the Oklahoma State Bureau of Investigation to be
14 deposited in the OSBI Revolving Fund established by
15 Section 150.19a of Title 74 of the Oklahoma Statutes
16 or to the general fund wherein the other law
17 enforcement agency is located,

18 j. to pay a reasonable sum to the Crime Victims
19 Compensation Board, created by Section 142.2 et seq.
20 of Title 21 of the Oklahoma Statutes, for the benefit
21 of crime victims,

22 k. to reimburse the court fund for amounts paid to court-
23 appointed attorneys for representing the defendant in
24 the case in which the person is being sentenced,

- 1 1. to participate in an assessment and evaluation by an
2 assessment agency or assessment personnel certified by
3 the Department of Mental Health and Substance Abuse
4 Services pursuant to Section 3-460 of Title 43A of the
5 Oklahoma Statutes and, as determined by the
6 assessment, participate in an alcohol and drug
7 substance abuse course or treatment program or both,
8 pursuant to Sections 3-452 and 3-453 of Title 43A of
9 the Oklahoma Statutes, or as ordered by the court,
- 10 m. to be placed in a victims impact panel program, as
11 defined in subsection H of this section, or
12 victim/offender reconciliation program and payment of
13 a fee to the program of not less than Fifteen Dollars
14 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
15 by the governing authority of the program to offset
16 the cost of participation by the defendant. Provided,
17 each victim/offender reconciliation program shall be
18 required to obtain a written consent form voluntarily
19 signed by the victim and defendant that specifies the
20 methods to be used to resolve the issues, the
21 obligations and rights of each person, and the
22 confidentiality of the proceedings. Volunteer
23 mediators and employees of a victim/offender
24 reconciliation program shall be immune from liability

1 and have rights of confidentiality as provided in
2 Section 1805 of Title 12 of the Oklahoma Statutes,
3 n. to install, at the expense of the defendant, an
4 ignition interlock device approved by the Board of
5 Tests for Alcohol and Drug Influence. The device
6 shall be installed upon every motor vehicle operated
7 by the defendant, and the court shall require that a
8 notation of this restriction be affixed to the
9 defendant's driver license. The restriction shall
10 remain on the driver license not exceeding two (2)
11 years to be determined by the court. The restriction
12 may be modified or removed only by order of the court
13 and notice of any modification order shall be given to
14 the Department of Public Safety. Upon the expiration
15 of the period for the restriction, the Department of
16 Public Safety shall remove the restriction without
17 further court order. Failure to comply with the order
18 to install an ignition interlock device or operating
19 any vehicle without a device during the period of
20 restriction shall be a violation of the sentence and
21 may be punished as deemed proper by the sentencing
22 court. As used in this paragraph, "ignition interlock
23 device" means a device that, without tampering or
24 intervention by another person, would prevent the

1 defendant from operating a motor vehicle if the
2 defendant has a blood or breath alcohol concentration
3 of two-hundredths (0.02) or greater,

4 o. to be confined by electronic monitoring administered
5 and supervised by the Department of Corrections or a
6 community sentence provider, and payment of a
7 monitoring fee to the supervising authority, not to
8 exceed Three Hundred Dollars (\$300.00) per month. Any
9 fees collected pursuant to this paragraph shall be
10 deposited with the appropriate supervising authority.
11 Any willful violation of an order of the court for the
12 payment of the monitoring fee shall be a violation of
13 the sentence and may be punished as deemed proper by
14 the sentencing court. As used in this paragraph,
15 "electronic monitoring" means confinement of the
16 defendant within a specified location or locations
17 with supervision by means of an electronic device
18 approved by the Department of Corrections which is
19 designed to detect if the defendant is in the court-
20 ordered location at the required times and which
21 records violations for investigation by a qualified
22 supervisory agency or person,

23 p. to perform one or more courses of treatment, education
24 or rehabilitation for any conditions, behaviors,

1 deficiencies or disorders which may contribute to
2 criminal conduct, including but not limited to alcohol
3 and substance abuse, mental health, emotional health,
4 physical health, propensity for violence, antisocial
5 behavior, personality or attitudes, deviant sexual
6 behavior, child development, parenting assistance, job
7 skills, vocational-technical skills, domestic
8 relations, literacy, education, or any other
9 identifiable deficiency which may be treated
10 appropriately in the community and for which a
11 certified provider or a program recognized by the
12 court as having significant positive impact exists in
13 the community. Any treatment, education or
14 rehabilitation provider required to be certified
15 pursuant to law or rule shall be certified by the
16 appropriate state agency or a national organization,
17 q. to submit to periodic testing for alcohol,
18 intoxicating substance, or controlled dangerous
19 substances by a qualified laboratory,
20 r. to pay a fee, costs for treatment, education,
21 supervision, participation in a program, or any
22 combination thereof as determined by the court, based
23 upon the defendant's ability to pay the fees or costs,
24

- 1 s. to be supervised by a Department of Corrections
2 employee, a private supervision provider, or other
3 person designated by the court,
- 4 t. to obtain positive behavior modeling by a trained
5 mentor,
- 6 u. to serve a term of confinement in a restrictive
7 housing facility available in the community,
- 8 v. to serve a term of confinement in the county jail at
9 night or during weekends pursuant to Section 991a-2 of
10 this title or for work release,
- 11 w. to obtain employment or participate in employment-
12 related activities,
- 13 x. to participate in mandatory day reporting to
14 facilities or persons for services, payments, duties
15 or person-to-person contacts as specified by the
16 court,
- 17 y. to pay day fines not to exceed fifty percent (50%) of
18 the net wages earned. For purposes of this paragraph,
19 "day fine" means the offender is ordered to pay an
20 amount calculated as a percentage of net daily wages
21 earned. The day fine shall be paid to the local
22 community sentencing system as reparation to the
23 community. Day fines shall be used to support the
24 local system,

1 z. to submit to blood or saliva testing as required by
2 subsection I of this section,

3 aa. to repair or restore property damaged by the
4 defendant's conduct, if the court determines the
5 defendant possesses sufficient skill to repair or
6 restore the property and the victim consents to the
7 repairing or restoring of the property,

8 bb. to restore damaged property in kind or payment of out-
9 of-pocket expenses to the victim, if the court is able
10 to determine the actual out-of-pocket expenses
11 suffered by the victim,

12 cc. to attend a victim-offender reconciliation program if
13 the victim agrees to participate and the offender is
14 deemed appropriate for participation,

15 dd. in the case of a person convicted of prostitution
16 pursuant to Section 1029 of Title 21 of the Oklahoma
17 Statutes, require such person to receive counseling
18 for the behavior which may have caused such person to
19 engage in prostitution activities. Such person may be
20 required to receive counseling in areas including but
21 not limited to alcohol and substance abuse, sexual
22 behavior problems, or domestic abuse or child abuse
23 problems,
24

1 ee. in the case of a sex offender sentenced after November
2 1, 1989, and required by law to register pursuant to
3 the Sex Offender Registration Act, the court shall
4 require the person to comply with sex offender
5 specific rules and conditions of supervision
6 established by the Department of Corrections and
7 require the person to participate in a treatment
8 program designed for the treatment of sex offenders
9 during the period of time while the offender is
10 subject to supervision by the Department of
11 Corrections. The treatment program shall include
12 polygraph examinations specifically designed for use
13 with sex offenders for purposes of supervision and
14 treatment compliance, and shall be administered not
15 less than each six (6) months during the period of
16 supervision. The examination shall be administered by
17 a certified licensed polygraph examiner. The
18 treatment program must be approved by the Department
19 of Corrections or the Department of Mental Health and
20 Substance Abuse Services. Such treatment shall be at
21 the expense of the defendant based on the defendant's
22 ability to pay,

23 ff. in addition to other sentencing powers of the court,
24 the court in the case of a defendant being sentenced

1 for a felony conviction for a violation of Section 2-
2 402 of Title 63 of the Oklahoma Statutes which
3 involves marijuana may require the person to
4 participate in a drug court program, if available. If
5 a drug court program is not available, the defendant
6 may be required to participate in a community
7 sanctions program, if available,

8 gg. in the case of a person convicted of any false or
9 bogus check violation, as defined in Section 1541.4 of
10 Title 21 of the Oklahoma Statutes, impose a fee of
11 Twenty-five Dollars (\$25.00) to the victim for each
12 check, and impose a bogus check fee to be paid to the
13 district attorney. The bogus check fee paid to the
14 district attorney shall be equal to the amount
15 assessed as court costs plus Twenty-five Dollars
16 (\$25.00) for each check upon filing of the case in
17 district court. This money shall be deposited in the
18 Bogus Check Restitution Program Fund as established in
19 subsection B of Section 114 of this title.

20 Additionally, the court may require the offender to
21 pay restitution and bogus check fees on any other
22 bogus check or checks that have been submitted to the
23 District Attorney Bogus Check Restitution Program, and
24

1 hh. in the case of a person convicted of operating or
2 being in control of a motor vehicle while the person
3 was under the influence of alcohol, order the person
4 to abstain or refrain from consuming alcohol for such
5 period as the court shall determine and to require
6 that a notation of this restriction be affixed to the
7 driver license of the person at the time of
8 reinstatement of the license. Notice of the order by
9 the court shall be transmitted to the Department of
10 Public Safety. The restriction shall remain on the
11 driver license of the person for a period of three (3)
12 years. The restriction may be modified or removed by
13 order of the court and notice of the order shall be
14 given to the Department. Upon the expiration of the
15 period for the restriction, the Department shall
16 remove the restriction without further court order.
17 Failure to comply with the order to abstain or refrain
18 from consuming alcohol shall be a violation of the
19 sentence and may be punished as deemed proper by the
20 sentencing court, and

21 ii. any other provision specifically ordered by the court.

22 However, any such order for restitution, community service,
23 payment to a local certified crime stoppers program, payment to the
24 Oklahoma Reward System, or confinement in the county jail, or a

1 combination thereof, shall be made in conjunction with probation and
2 shall be made a condition of the suspended sentence.

3 However, unless under the supervision of the district attorney,
4 the offender shall be required to pay Forty Dollars (\$40.00) per
5 month to the district attorney during the first two (2) years of
6 probation to compensate the district attorney for the costs incurred
7 during the prosecution of the offender and for the additional work
8 of verifying the compliance of the offender with the rules and
9 conditions of his or her probation. The district attorney may waive
10 any part of this requirement in the best interests of justice. The
11 court shall not waive, suspend, defer or dismiss the costs of
12 prosecution in its entirety. However, if the court determines that
13 a reduction in the fine, costs and costs of prosecution is
14 warranted, the court shall equally apply the same percentage
15 reduction to the fine, costs and costs of prosecution owed by the
16 offender;

17 2. Impose a fine prescribed by law for the offense, with or
18 without probation or commitment and with or without restitution or
19 service as provided for in this section, Section 991a-4.1 of this
20 title or Section 227 of Title 57 of the Oklahoma Statutes;

21 3. Commit such person for confinement provided for by law with
22 or without restitution as provided for in this section;

23 4. Order the defendant to reimburse the Oklahoma State Bureau
24 of Investigation for costs incurred by that agency during its

1 investigation of the crime for which the defendant pleaded guilty,
2 nolo contendere or was convicted, including compensation for
3 laboratory, technical, or investigation services performed by the
4 Bureau if, in the opinion of the court, the defendant is able to pay
5 without imposing manifest hardship on the defendant, and if the
6 costs incurred by the Bureau during the investigation of the
7 defendant's case may be determined with reasonable certainty;

8 5. Order the defendant to reimburse the Oklahoma State Bureau
9 of Investigation for all costs incurred by that agency for cleaning
10 up an illegal drug laboratory site for which the defendant pleaded
11 guilty, nolo contendere or was convicted. The court clerk shall
12 collect the amount and may retain five percent (5%) of such monies
13 to be deposited in the Court Clerk Revolving Fund to cover
14 administrative costs and shall remit the remainder to the Oklahoma
15 State Bureau of Investigation to be deposited in the OSBI Revolving
16 Fund established by Section 150.19a of Title 74 of the Oklahoma
17 Statutes;

18 6. In the case of nonviolent felony offenses, sentence such
19 person to the Community Service Sentencing Program;

20 7. In addition to the other sentencing powers of the court, in
21 the case of a person convicted of operating or being in control of a
22 motor vehicle while the person was under the influence of alcohol,
23 other intoxicating substance, or a combination of alcohol or another
24 intoxicating substance, or convicted of operating a motor vehicle

1 while the ability of the person to operate such vehicle was impaired
2 due to the consumption of alcohol, require such person:

3 a. to participate in an alcohol and drug assessment and
4 evaluation by an assessment agency or assessment
5 personnel certified by the Department of Mental Health
6 and Substance Abuse Services pursuant to Section 3-460
7 of Title 43A of the Oklahoma Statutes and, as
8 determined by the assessment, participate in an
9 alcohol and drug substance abuse course or treatment
10 program or both, pursuant to Sections 3-452 and 3-453
11 of Title 43A of the Oklahoma Statutes,

12 b. to attend a victims impact panel program, as defined
13 in subsection H of this section, if such a program is
14 offered in the county where the judgment is rendered,
15 and to pay a fee of not less than Fifteen Dollars
16 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
17 by the governing authority of the program and approved
18 by the court, to the program to offset the cost of
19 participation by the defendant, if in the opinion of
20 the court the defendant has the ability to pay such
21 fee,

22 c. to both participate in the alcohol and drug substance
23 abuse course or treatment program, pursuant to
24 subparagraph a of this paragraph and attend a victims

1 impact panel program, pursuant to subparagraph b of
2 this paragraph,

- 3 d. to install, at the expense of the person, an ignition
4 interlock device approved by the Board of Tests for
5 Alcohol and Drug Influence, upon every motor vehicle
6 operated by such person and to require that a notation
7 of this restriction be affixed to the person's driver
8 license at the time of reinstatement of the license.
9 The restriction shall remain on the driver license for
10 such period as the court shall determine. The
11 restriction may be modified or removed by order of the
12 court and notice of the order shall be given to the
13 Department of Public Safety. Upon the expiration of
14 the period for the restriction, the Department of
15 Public Safety shall remove the restriction without
16 further court order. Failure to comply with the order
17 to install an ignition interlock device or operating
18 any vehicle without such device during the period of
19 restriction shall be a violation of the sentence and
20 may be punished as deemed proper by the sentencing
21 court, or
- 22 e. beginning January 1, 1993, to submit to electronically
23 monitored home detention administered and supervised
24 by the Department of Corrections, and to pay to the

1 Department a monitoring fee, not to exceed Seventy-
2 five Dollars (\$75.00) a month, to the Department of
3 Corrections, if in the opinion of the court the
4 defendant has the ability to pay such fee. Any fees
5 collected pursuant to this subparagraph shall be
6 deposited in the Department of Corrections Revolving
7 Fund. Any order by the court for the payment of the
8 monitoring fee, if willfully disobeyed, may be
9 enforced as an indirect contempt of court;

10 8. In addition to the other sentencing powers of the court, in
11 the case of a person convicted of prostitution pursuant to Section
12 1029 of Title 21 of the Oklahoma Statutes, require such person to
13 receive counseling for the behavior which may have caused such
14 person to engage in prostitution activities. Such person may be
15 required to receive counseling in areas including but not limited to
16 alcohol and substance abuse, sexual behavior problems, or domestic
17 abuse or child abuse problems;

18 9. In addition to the other sentencing powers of the court, in
19 the case of a person convicted of any crime related to domestic
20 abuse, as defined in Section 60.1 of this title, the court may
21 require the defendant to undergo the treatment or participate in the
22 counseling services necessary to bring about the cessation of
23 domestic abuse against the victim. The defendant may be required to
24 pay all or part of the cost of the treatment or counseling services;

1 10. In addition to the other sentencing powers of the court,
2 the court, in the case of a sex offender sentenced after November 1,
3 1989, and required by law to register pursuant to the Sex Offenders
4 Registration Act, shall require the person to participate in a
5 treatment program designed specifically for the treatment of sex
6 offenders, if available. The treatment program will include
7 polygraph examinations specifically designed for use with sex
8 offenders for the purpose of supervision and treatment compliance,
9 provided the examination is administered by a certified licensed
10 polygraph examiner. The treatment program must be approved by the
11 Department of Corrections or the Department of Mental Health and
12 Substance Abuse Services. Such treatment shall be at the expense of
13 the defendant based on the defendant's ability to pay;

14 11. In addition to the other sentencing powers of the court,
15 the court, in the case of a person convicted of child abuse or
16 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
17 Statutes, may require the person to undergo treatment or to
18 participate in counseling services. The defendant may be required
19 to pay all or part of the cost of the treatment or counseling
20 services;

21 12. In addition to the other sentencing powers of the court,
22 the court, in the case of a person convicted of cruelty to animals
23 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
24

1 require the person to pay restitution to animal facilities for
2 medical care and any boarding costs of victimized animals;

3 13. In addition to the other sentencing powers of the court, a
4 sex offender who is habitual or aggravated as defined by Section 584
5 of Title 57 of the Oklahoma Statutes and who is required to register
6 as a sex offender pursuant to the Oklahoma Sex Offenders
7 Registration Act shall be supervised by the Department of
8 Corrections for the duration of the registration period and shall be
9 assigned to a global position monitoring device by the Department of
10 Corrections for the duration of the registration period. The cost
11 of such monitoring device shall be reimbursed by the offender;

12 14. In addition to the other sentencing powers of the court, in
13 the case of a sex offender who is required by law to register
14 pursuant to the Sex Offenders Registration Act, the court may
15 prohibit the person from accessing or using any Internet social
16 networking web site that has the potential or likelihood of allowing
17 the sex offender to have contact with any child who is under the age
18 of eighteen (18) years; or

19 15. In addition to the other sentencing powers of the court, in
20 the case of a sex offender who is required by law to register
21 pursuant to the Sex Offenders Registration Act, the court shall
22 require the person to register any electronic mail address
23 information, instant message, chat or other Internet communication
24 name or identity information that the person uses or intends to use

1 while accessing the Internet or used for other purposes of social
2 networking or other similar Internet communication.

3 B. Notwithstanding any other provision of law, any person who
4 is found guilty of a violation of any provision of Section 761 or
5 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
6 guilty or nolo contendere for a violation of any provision of such
7 sections shall be ordered to participate in, prior to sentencing, an
8 alcohol and drug assessment and evaluation by an assessment agency
9 or assessment personnel certified by the Department of Mental Health
10 and Substance Abuse Services for the purpose of evaluating the
11 receptivity to treatment and prognosis of the person. The court
12 shall order the person to reimburse the agency or assessor for the
13 evaluation. The fee shall be the amount provided in subsection C of
14 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
15 shall be conducted at a certified assessment agency, the office of a
16 certified assessor or at another location as ordered by the court.
17 The agency or assessor shall, within seventy-two (72) hours from the
18 time the person is assessed, submit a written report to the court
19 for the purpose of assisting the court in its final sentencing
20 determination. No person, agency or facility operating an alcohol
21 and drug substance abuse evaluation program certified by the
22 Department of Mental Health and Substance Abuse Services shall
23 solicit or refer any person evaluated pursuant to this subsection
24 for any treatment program or alcohol and drug substance abuse

1 service in which such person, agency or facility has a vested
2 interest; however, this provision shall not be construed to prohibit
3 the court from ordering participation in or any person from
4 voluntarily utilizing a treatment program or alcohol and drug
5 substance abuse service offered by such person, agency or facility.
6 If a person is sentenced to the custody of the Department of
7 Corrections and the court has received a written evaluation report
8 pursuant to this subsection, the report shall be furnished to the
9 Department of Corrections with the judgment and sentence. Any
10 evaluation report submitted to the court pursuant to this subsection
11 shall be handled in a manner which will keep such report
12 confidential from the general public's review. Nothing contained in
13 this subsection shall be construed to prohibit the court from
14 ordering judgment and sentence in the event the defendant fails or
15 refuses to comply with an order of the court to obtain the
16 evaluation required by this subsection.

17 C. When sentencing a person convicted of a crime, the court
18 shall first consider a program of restitution for the victim, as
19 well as imposition of a fine or incarceration of the offender. The
20 provisions of paragraph 1 of subsection A of this section shall not
21 apply to defendants being sentenced upon their third or subsequent
22 to their third conviction of a felony or, beginning January 1, 1993,
23 to defendants being sentenced for their second or subsequent felony
24 conviction for violation of Section 11-902 of Title 47 of the

1 Oklahoma Statutes, except as otherwise provided in this subsection.
2 In the case of a person being sentenced for their second or
3 subsequent felony conviction for violation of Section 11-902 of
4 Title 47 of the Oklahoma Statutes, the court may sentence the person
5 pursuant to the provisions of paragraph 1 of subsection A of this
6 section if the court orders the person to submit to electronically
7 monitored home detention administered and supervised by the
8 Department of Corrections pursuant to subparagraph e of paragraph 7
9 of subsection A of this section. Provided, the court may waive
10 these prohibitions upon written application of the district
11 attorney. Both the application and the waiver shall be made part of
12 the record of the case.

13 D. When sentencing a person convicted of a crime, the judge
14 shall consider any victims impact statements if submitted to the
15 jury, or the judge in the event a jury is waived.

16 E. Probation, for purposes of subsection A of this section, is
17 a procedure by which a defendant found guilty of a crime, whether
18 upon a verdict or plea of guilty or upon a plea of nolo contendere,
19 is released by the court subject to conditions imposed by the court
20 and subject to supervision by the Department of Corrections, a
21 private supervision provider or other person designated by the
22 court. Such supervision shall be initiated upon an order of
23 probation from the court, and shall not exceed two (2) years, unless
24 a petition alleging a violation of any condition of deferred

1 judgment or seeking revocation of the suspended sentence is filed
2 during the supervision, or as otherwise provided by law. In the
3 case of a person convicted of a sex offense, supervision shall begin
4 immediately upon release from incarceration or if parole is granted
5 and shall not be limited to two (2) years. Provided further, any
6 supervision provided for in this section may be extended for a
7 period not to exceed the expiration of the maximum term or terms of
8 the sentence upon a determination by the court or the Division of
9 Probation and Parole of the Department of Corrections that the best
10 interests of the public and the release will be served by an
11 extended period of supervision.

12 F. The Department of Corrections, or such other agency as the
13 court may designate, shall be responsible for the monitoring and
14 administration of the restitution and service programs provided for
15 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
16 section, and shall ensure that restitution payments are forwarded to
17 the victim and that service assignments are properly performed.

18 G. 1. The Department of Corrections is hereby authorized,
19 subject to funds available through appropriation by the Legislature,
20 to contract with counties for the administration of county Community
21 Service Sentencing Programs.

22 2. Any offender eligible to participate in the Program pursuant
23 to this act shall be eligible to participate in a county Program;
24 provided, participation in county-funded Programs shall not be

1 limited to offenders who would otherwise be sentenced to confinement
2 with the Department of Corrections.

3 3. The Department shall establish criteria and specifications
4 for contracts with counties for such Programs. A county may apply
5 to the Department for a contract for a county-funded Program for a
6 specific period of time. The Department shall be responsible for
7 ensuring that any contracting county complies in full with
8 specifications and requirements of the contract. The contract shall
9 set appropriate compensation to the county for services to the
10 Department.

11 4. The Department is hereby authorized to provide technical
12 assistance to any county in establishing a Program, regardless of
13 whether the county enters into a contract pursuant to this
14 subsection. Technical assistance shall include appropriate
15 staffing, development of community resources, sponsorship,
16 supervision and any other requirements.

17 5. The Department shall annually make a report to the Governor,
18 the President Pro Tempore of the Senate and the Speaker of the House
19 on the number of such Programs, the number of participating
20 offenders, the success rates of each Program according to criteria
21 established by the Department and the costs of each Program.

22 H. As used in this section:

23 1. "Ignition interlock device" means a device that, without
24 tampering or intervention by another person, would prevent the

1 defendant from operating a motor vehicle if the defendant has a
2 blood or breath alcohol concentration of two-hundredths (0.02) or
3 greater;

4 2. "Electronically monitored home detention" means
5 incarceration of the defendant within a specified location or
6 locations with monitoring by means of a device approved by the
7 Department of Corrections that detects if the person leaves the
8 confines of any specified location; and

9 3. "Victims impact panel program" means a meeting with at least
10 one live presenter who will share personal stories with participants
11 about how alcohol, drug abuse and the illegal conduct of others has
12 personally impacted the life of the presenter. A victims impact
13 panel program shall be attended by persons who have committed the
14 offense of driving, operating or being in actual physical control of
15 a motor vehicle while under the influence of alcohol or other
16 intoxicating substance. Persons attending a victims impact panel
17 program shall be required to pay a fee of not less than Fifteen
18 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
19 provider of the program. A certificate of completion shall be
20 issued to the person upon satisfying the attendance and fee
21 requirements of the victims impact panel program. A victims impact
22 panel program shall not be provided by any certified assessment
23 agency or certified assessor. The provider of the victims impact
24 panel program shall carry general liability insurance and maintain

1 an accurate accounting of all business transactions and funds
2 received in relation to the victims impact panel program.

3 I. A person convicted of a felony offense or receiving any form
4 of probation for an offense in which registration is required
5 pursuant to the Sex Offenders Registration Act, shall submit to
6 deoxyribonucleic acid DNA testing for law enforcement identification
7 purposes in accordance with Section 150.27 of Title 74 of the
8 Oklahoma Statutes and the rules promulgated by the Oklahoma State
9 Bureau of Investigation for the OSBI Combined DNA Index System
10 (CODIS) Database. Subject to the availability of funds, any person
11 convicted of a misdemeanor offense of assault and battery, domestic
12 abuse, stalking, possession of a controlled substance prohibited
13 under Schedule IV of the Uniform Controlled Dangerous Substances
14 Act, outraging public decency, resisting arrest, escape or
15 attempting to escape, eluding a police officer, peeping tom,
16 pointing a firearm, unlawful carry of a firearm, illegal transport
17 of a firearm, discharging of a firearm, threatening an act of
18 violence, breaking and entering a dwelling place, destruction of
19 property, negligent homicide, or causing a personal injury accident
20 while driving under the influence of any intoxicating substance, or
21 any alien unlawfully present under federal immigration law, upon
22 arrest, shall submit to deoxyribonucleic acid DNA testing for law
23 enforcement identification purposes in accordance with Section
24 150.27 of Title 74 of the Oklahoma Statutes and the rules

1 promulgated by the Oklahoma State Bureau of Investigation for the
2 OSBI Combined DNA Index System (CODIS) Database. Any defendant
3 sentenced to probation shall be required to submit to testing within
4 thirty (30) days of sentencing either to the Department of
5 Corrections or to the county sheriff or other peace officer as
6 directed by the court. Defendants who are sentenced to a term of
7 incarceration shall submit to testing in accordance with Section
8 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
9 enter the custody of the Department of Corrections or to the county
10 sheriff, for those defendants sentenced to incarceration in a county
11 jail. Convicted individuals who have previously submitted to DNA
12 testing under this section and for whom a valid sample is on file in
13 the OSBI Combined DNA Index System (CODIS) Database at the time of
14 sentencing shall not be required to submit to additional testing.
15 Except as required by the Sex Offenders Registration Act, a deferred
16 judgment does not require submission to deoxyribonucleic acid
17 testing.

18 Any person who is incarcerated in the custody of the Department
19 of Corrections after July 1, 1996, and who has not been released
20 before January 1, 2006, shall provide a blood or saliva sample prior
21 to release. Every person subject to DNA testing after January 1,
22 2006, whose sentence does not include a term of confinement with the
23 Department of Corrections shall submit a blood or saliva sample.
24 Every person subject to DNA testing who is sentenced to unsupervised

1 probation or otherwise not supervised by the Department of
2 Corrections shall submit for blood or saliva testing to the sheriff
3 of the sentencing county.

4 J. Samples of blood or saliva for DNA testing required by
5 subsection I of this section shall be taken by employees or
6 contractors of the Department of Corrections, peace officers, or the
7 county sheriff or employees or contractors of the sheriff's office.
8 The individuals shall be properly trained to collect blood or saliva
9 samples. Persons collecting blood or saliva for DNA testing
10 pursuant to this section shall be immune from civil liabilities
11 arising from this activity. All collectors of DNA samples shall
12 ensure the collection of samples are mailed to the Oklahoma State
13 Bureau of Investigation within ten (10) days of the time the subject
14 appears for testing or within ten (10) days of the date the subject
15 comes into physical custody to serve a term of incarceration. All
16 collectors of DNA samples shall use sample kits provided by the OSBI
17 and procedures promulgated by the OSBI. Persons subject to DNA
18 testing who are not received at the Lexington Assessment and
19 Reception Center shall be required to pay a fee of Fifteen Dollars
20 (\$15.00) to the agency collecting the sample for submission to the
21 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
22 pursuant to this subsection shall be deposited in the revolving
23 account or the service fee account of the collection agency or
24 department.

1 K. When sentencing a person who has been convicted of a crime
2 that would subject that person to the provisions of the Sex
3 Offenders Registration Act, neither the court nor the district
4 attorney shall be allowed to waive or exempt such person from the
5 registration requirements of the Sex Offenders Registration Act.

6 SECTION 3. AMENDATORY 37 O.S. 2011, Section 537, as
7 amended by Section 12, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2016,
8 Section 537), is amended to read as follows:

9 Section 537. A. No person shall:

10 1. Knowingly sell, deliver, or furnish alcoholic beverages to
11 any person under twenty-one (21) years of age;

12 2. Sell, deliver or knowingly furnish alcoholic beverages to an
13 intoxicated person or to any person who has been adjudged insane or
14 mentally deficient;

15 3. Knowingly sell, deliver or furnish alcoholic beverages to a
16 person who has been ordered by a court to abstain or refrain from
17 consuming alcohol as provided in Section 991a of Title 22 of the
18 Oklahoma Statutes;

19 4. Open a retail container or consume alcoholic beverages on
20 the premises of a retail package store;

21 ~~4.~~ 5. Import into this state, except as provided for in the
22 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;
23 provided, that nothing herein shall prohibit the importation or
24 possession for personal use of not more than one (1) liter of

1 alcoholic beverages upon which the Oklahoma excise tax is
2 delinquent;

3 ~~5.~~ 6. Receive, possess, or use any alcoholic beverage in
4 violation of the provisions of the Oklahoma Alcoholic Beverage
5 Control Act;

6 ~~6.~~ 7. Transport into, within, or through this state more than
7 one (1) liter of alcoholic beverages upon which the Oklahoma excise
8 tax has not been paid unless the person accompanying or in charge of
9 the vehicle transporting same shall possess a true copy of a bill of
10 lading, invoice, manifest or other document particularly identifying
11 the alcoholic beverages being transported and showing the name and
12 address of the consignor and consignee; provided, this prohibition
13 shall not apply to the first one hundred eighty (180) liters of
14 alcoholic beverages classified as household goods by military
15 personnel, age twenty-one (21) or older when entering Oklahoma from
16 temporary active assignment outside the contiguous United States;

17 ~~7.~~ 8. Knowingly transport in any vehicle upon a public highway,
18 street or alley any alcoholic beverage except in the original
19 container which shall not have been opened and the seal upon which
20 shall not have been broken and from which the original cap or cork
21 shall not have been removed, unless the opened container be in the
22 rear trunk or rear compartment, which shall include the spare tire
23 compartment in a vehicle commonly known as a station wagon and panel
24

1 truck, or any outside compartment which is not accessible to the
2 driver or any other person in the vehicle while it is in motion;

3 ~~8.~~ 9. Drink intoxicating liquor in public except on the
4 premises of a licensee of the Alcoholic Beverage Laws Enforcement
5 Commission who is authorized to sell or serve alcoholic beverages by
6 the individual drink or be intoxicated in a public place. This
7 provision shall be cumulative and in addition to existing law;

8 ~~9.~~ 10. Forcibly resist lawful arrest, or by physical contact
9 interfere with an investigation of any infringement of the Oklahoma
10 Alcoholic Beverage Control Act or with any lawful search or seizure
11 being made by an inspector or agent of the ABLE Commission, when
12 such person knows or should know that such acts are being performed
13 by a state, county, or municipal officer, inspector or agent of the
14 ABLE Commission;

15 ~~10.~~ 11. Manufacture, duplicate, counterfeit or in any way
16 imitate any bottle club membership card required to be issued by the
17 ABLE Commission without the permission of the Commission;

18 ~~11.~~ 12. Consume or possess alcoholic beverages on the licensed
19 premises of a bottle club unless such person possesses a valid
20 membership card for that club issued by the club; ~~or~~

21 ~~12.~~ 13. Knowingly possess any bottle club membership card
22 required to be issued by the ABLE Commission, which has been
23 manufactured, counterfeited, imitated or in any way duplicated
24 without the permission of the Commission; or

1 14. Purchase alcoholic beverages if the person has been ordered
2 by a court to abstain or refrain from consuming alcohol as provided
3 in Section 991a of Title 22 of the Oklahoma Statutes.

4 B. No licensee of the ABLE Commission shall:

5 1. Receive, possess, or sell any alcoholic beverage except as
6 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
7 license or permit which the licensee holds;

8 2. Employ any person under the age of twenty-one (21) in the
9 selling or handling of alcoholic beverages. Provided, that a mixed
10 beverage, beer and wine, caterer, public event, special event or
11 bottle club licensee may employ servers who are at least eighteen
12 (18) years of age, except persons under twenty-one (21) years of age
13 may not serve in designated bar or lounge areas, and a mixed
14 beverage, beer and wine, caterer, public event, special event or
15 bottle club licensee may employ or hire musical bands who have
16 musicians who are under twenty-one (21) years of age if each such
17 musician is either accompanied by a parent or legal guardian or has
18 on their person, to be made available for inspection upon demand by
19 any ABLE Commission officer or law enforcement officer, a written,
20 notarized affidavit from the parent or legal guardian giving the
21 underage musician permission to perform in designated bar or lounge
22 areas;

1 3. Give any alcoholic beverage as a prize, premium or
2 consideration for any lottery, game of chance or skill or any type
3 of competition;

4 4. Advertise or offer "happy hours" or any other means or
5 inducements to stimulate the consumption of alcoholic beverages
6 including:

7 a. deliver more than two drinks to one person at one
8 time,

9 b. sell or offer to sell to any person or group of
10 persons any drinks at a price less than the price
11 regularly charged for such drinks during the same
12 calendar week, except at private functions not open to
13 the public,

14 c. sell or offer to sell to any person an unlimited
15 number of drinks during any set period of time for a
16 fixed price, except at private functions not open to
17 the public,

18 d. sell or offer to sell drinks to any person or group of
19 persons on any one day at prices less than those
20 charged the general public on that day, except at
21 private functions not open to the public,

22 e. increase the volume of alcoholic beverages contained
23 in a drink without increasing proportionately the
24

1 price regularly charged for such drink during the same
2 calendar week, or

3 f. encourage or permit, on the licensed premises, any
4 game or contest which involves drinking or the
5 awarding of drinks as prizes.

6 Provided that the provisions of this paragraph shall not prohibit
7 the advertising or offering of food or entertainment in licensed
8 establishments;

9 5. Permit or allow any patron or person to exit the licensed
10 premises with an open container of any alcoholic beverage.

11 Provided, that this prohibition shall not be applicable to closed
12 original containers of alcoholic beverages which are carried from
13 the licensed premises of a bottle club by a patron, closed original
14 wine containers removed from the premises of restaurants, hotels,
15 and motels, or to closed original containers of alcoholic beverages
16 transported to and from the place of business of a licensed caterer
17 by the caterer or an employee of the caterer;

18 6. Serve or sell alcoholic beverages with an expired license
19 issued by the ABLE Commission; or

20 7. Permit any person to be drunk or intoxicated on the
21 licensee's licensed premises.

22 C. No package store licensee shall:
23
24

- 1 1. Purchase or receive any alcoholic beverage other than from a
2 person holding a brewer, wholesaler or Class B wholesaler license
3 issued pursuant to the Oklahoma Alcoholic Beverage Control Act;
- 4 2. Suffer or permit any retail container to be opened, or any
5 alcoholic beverage to be consumed, on the licensed premises;
- 6 3. Sell, or keep package store premises open for the purpose of
7 selling, any alcoholic beverages at any hour other than between the
8 hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided,
9 that no such sales shall be made, or package store premises be
10 allowed to remain open for the purpose of making such sales on New
11 Year's Day, Memorial Day, the Fourth of July, Labor Day,
12 Thanksgiving Day or Christmas Day. Package store licensees shall be
13 permitted to sell, or keep package store premises open for the
14 purpose of selling, alcoholic beverages on the day of any General,
15 Primary, Runoff Primary or Special Election whether on a national,
16 state, county or city election, provided that the election day does
17 not occur on any day on which such sales are otherwise prohibited by
18 law;
- 19 4. Operate a retail package store unless such store shall be
20 located in a city or town having a population in excess of two
21 hundred (200) according to the latest Federal Decennial Census;
- 22 5. Sell any alcoholic beverage on credit; provided that
23 acceptance by a retail liquor store of a cash or debit card, or a
24 nationally recognized credit card, in lieu of actual cash payment

1 does not constitute the extension of credit; provided further, as
2 used in this section:

3 a. "cash or debit card" means any instrument or device
4 whether known as a debit card or by any other name,
5 issued with or without fee by an issuer for the use of
6 the cardholder in depositing, obtaining or
7 transferring funds from a consumer banking electronic
8 facility, and

9 b. "nationally recognized credit card" means any
10 instrument or device, whether known as a credit card,
11 credit plate, charge plate or by any other name,
12 issued with or without fee by an issuer for the use of
13 the cardholder in obtaining money, goods, services or
14 anything else of value on credit which is accepted by
15 over one hundred merchants;

16 6. Offer or furnish any prize, premium, gift or similar
17 inducement to a consumer in connection with the sale of alcoholic
18 beverage, except that goods or merchandise included by the
19 manufacturer in packaging with alcoholic beverages or for packaging
20 with alcoholic beverages shall not be included in this prohibition,
21 but no wholesaler or package store shall sell any alcoholic beverage
22 prepackaged with other goods or merchandise at a price which is
23 greater than the price at which the alcoholic beverage alone is
24 sold;

1 7. Permit any person under twenty-one (21) years of age to
2 enter into, remain within or loiter about the licensed premises; or

3 8. Pay for alcoholic beverages by a check or draft which is
4 dishonored by the drawee when presented to such drawee for payment;
5 and the ABLE Commission may cancel or suspend the license of any
6 retailer who has given a check or draft, as maker or endorser, which
7 is so dishonored upon presentation.

8 D. No wholesaler licensee shall:

9 1. Sell or deliver any amount of spirits or wines to any
10 package store licensee on Saturday or Sunday; or

11 2. Sell or deliver any amount of spirits or wines to any
12 package store licensee on New Year's Day, Memorial Day, the Fourth
13 of July, Labor Day, Thanksgiving Day or Christmas Day.

14 E. No mixed beverage, public event, special event or beer and
15 wine licensee shall:

16 1. Purchase or receive any alcoholic beverage other than from a
17 person holding a wholesaler or Class B wholesaler license issued
18 pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a
19 mixed beverage or beer and wine licensee whose premises are a
20 restaurant may purchase wine produced at wineries in this state
21 directly from an Oklahoma winemaker as provided in Section 3 of
22 Article XXVIII of the Oklahoma Constitution;

23

24

1 2. Transport alcoholic beverages from the place of purchase to
2 the licensed premises unless the licensee also holds a private
3 carrier license issued by the ABLE Commission;

4 3. Use or allow the use of any mark or label on a container of
5 alcoholic beverage which is kept for sale which does not clearly and
6 precisely indicate the nature of the contents or which might deceive
7 or conceal the nature, composition, quantity, age or quality of such
8 beverage;

9 4. Keep or knowingly permit any alcoholic beverage to be kept,
10 brought or consumed on the licensed premises which is not allowed to
11 be sold or served upon such premises; or

12 5. Allow any person under twenty-one (21) years of age to enter
13 into, remain within or loiter about the designated bar area of the
14 licensed premises, except for persons who incidentally pass through
15 the designated area.

16 The prohibition in this subsection against persons under twenty-
17 one (21) years of age entering or remaining within the designated
18 bar area of the licensed premises shall not apply, if the licensed
19 premises are closed to the public during a time the premises are
20 legally permitted to be open for business and the premises are used
21 for a private party at which alcoholic beverages may be served to
22 persons twenty-one (21) years of age or older. Any alcoholic
23 beverages served at a private party on the licensed premises may be
24 purchased from the licensee at a negotiated price or purchased

1 privately and served at the private party on the licensed premises.
2 Any licensee who desires to conduct such a private party shall
3 notify the ABLE Commission, in writing, at least ten (10) calendar
4 days prior to the private party. The notification shall include the
5 date, time, and purpose of the private party and any other
6 information the ABLE Commission may deem necessary.

7 F. No bottle club licensee shall:

8 1. Use or allow the use of any mark or label on a container of
9 alcoholic beverage which does not clearly and precisely indicate the
10 nature of the contents or which might deceive or conceal the nature,
11 composition, quantity, age or quality of any such beverage;

12 2. Act as an agent for any bottle club member and purchase any
13 alcoholic beverage for the member;

14 3. Use or allow the use of any pool system of storage or
15 purchase of alcoholic beverages;

16 4. Allow any person to enter or remain in the designated bar or
17 lounge area of the club unless that person possesses a valid
18 membership card for that club issued by the club;

19 5. Sell any alcoholic beverage;

20 6. Deliver or furnish to any club member any alcoholic beverage
21 that does not belong to the member;

22 7. Serve alcoholic beverages to any person who does not possess
23 a valid membership card for that club issued by the club;

24

1 8. Issue a membership card for the club to a person under
2 twenty-one (21) years of age; or

3 9. Allow any person under twenty-one (21) years of age to enter
4 into, remain within or loiter about the designated bar area of the
5 licensed premises, except for members of a musical band employed or
6 hired as provided in paragraph 2 of subsection B of this section
7 when the band is to perform within such area.

8 The prohibition in this subsection against persons under twenty-
9 one (21) years of age entering or remaining within the designated
10 bar area of the licensed premises shall not apply, if the licensed
11 premises are closed to the public during a time the premises are
12 legally permitted to be open for business and the premises are used
13 for a private party at which alcoholic beverages may be served to
14 persons twenty-one (21) years of age or older. Any alcoholic
15 beverages served at a private party on the licensed premises may be
16 purchased from the licensee at a negotiated price or purchased
17 privately and served at the private party on the licensed premises.
18 Any licensee who desires to conduct such a private party shall
19 notify the ABLE Commission, in writing, at least ten (10) calendar
20 days prior to the private party. The notification shall include the
21 date, time, and purpose of the private party and any other
22 information the ABLE Commission may deem necessary.

23 G. No special event or caterer licensee shall:
24

1 1. Purchase or receive any alcoholic beverage other than from a
2 person holding a wholesaler or Class B wholesaler license issued
3 pursuant to the provisions of the Oklahoma Alcoholic Beverage
4 Control Act; provided, a special event or caterer licensee may
5 purchase wine produced at wineries in this state directly from an
6 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the
7 Oklahoma Constitution; or

8 2. Transport alcoholic beverages from the place of purchase to
9 the licensed premises unless the licensee also holds a private
10 carrier license issued by the ABLE Commission.

11 SECTION 4. AMENDATORY Section 141, Chapter 366, O.S.L.
12 2016 (37A O.S. Supp. 2016, Section 6-101), is amended to read as
13 follows:

14 Section 6-101. A. No person shall:

15 1. Knowingly sell, deliver or furnish alcoholic beverages to
16 any person under twenty-one (21) years of age;

17 2. Sell, deliver or knowingly furnish alcoholic beverages to an
18 intoxicated person or to any person who has been adjudged insane or
19 mentally deficient;

20 3. Knowingly sell, deliver or furnish alcoholic beverages to a
21 person who has been ordered by a court to abstain or refrain from
22 consuming alcohol as provided in Section 991a of Title 22 of the
23 Oklahoma Statutes;

1 4. Open a retail container or consume alcoholic beverages on
2 the premises of a package store, grocery store, convenience store or
3 drug store, unless otherwise permitted by law;

4 ~~4.~~ 5. Import into this state, except as provided for in the
5 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;
6 provided, that nothing herein shall prohibit the importation or
7 possession for personal use of not more than one (1) liter of
8 alcoholic beverages upon which the Oklahoma excise tax is
9 delinquent;

10 ~~5.~~ 6. Receive, possess or use any alcoholic beverage in
11 violation of the provisions of the Oklahoma Alcoholic Beverage
12 Control Act;

13 ~~6.~~ 7. Transport into, within or through this state more than
14 one (1) liter of alcoholic beverages upon which the Oklahoma excise
15 tax has not been paid unless the person accompanying or in charge of
16 the vehicle transporting same shall possess a true copy of a bill of
17 lading, invoice, manifest or other document particularly identifying
18 the alcoholic beverages being transported and showing the name and
19 address of the consignor and consignee; provided, this prohibition
20 shall not apply to the first one hundred eighty (180) liters of
21 alcoholic beverages classified as household goods by military
22 personnel, age twenty-one (21) or older, when entering Oklahoma from
23 temporary active assignment outside the contiguous United States;

24

1 ~~7.~~ 8. Knowingly transport in any vehicle upon a public highway,
2 street or alley any alcoholic beverage except in the original
3 container which shall not have been opened and the seal upon which
4 shall not have been broken and from which the original cap or cork
5 shall not have been removed, unless the opened container be in the
6 rear trunk or rear compartment, which shall include the spare tire
7 compartment in a vehicle commonly known as a station wagon and panel
8 truck, or any outside compartment which is not accessible to the
9 driver or any other person in the vehicle while it is in motion;

10 ~~8.~~ 9. Consume spirits in public except on the premises of a
11 licensee of the ABLE Commission who is authorized to sell or serve
12 spirits by the individual drink, or be intoxicated in a public
13 place. This provision shall be cumulative and in addition to
14 existing law;

15 ~~9.~~ 10. Forcibly resist lawful arrest, or by physical contact
16 interfere with an investigation of any infringement of the Oklahoma
17 Alcoholic Beverage Control Act or with any lawful search or seizure
18 being made by a law enforcement officer or an employee of the ABLE
19 Commission, when such person knows or should know that such acts are
20 being performed by a state, county or municipal officer or employee
21 of the ABLE Commission;

22 ~~10.~~ 11. Manufacture, duplicate, counterfeit or in any way
23 imitate any bottle club membership card required to be issued by the
24 ABLE Commission without the permission of the ABLE Commission;

1 ~~11.~~ 12. Consume or possess alcoholic beverages on the licensed
2 premises of a bottle club unless such person possesses a valid
3 membership card for that club issued by the club;

4 ~~12.~~ 13. Knowingly possess any bottle club membership card
5 required to be issued by the ABLE Commission which has been
6 manufactured, counterfeited, imitated or in any way duplicated
7 without the permission of the ABLE Commission; ~~or~~

8 ~~13.~~ 14. Knowingly and willfully permit any individual under
9 twenty-one (21) years of age who is an invitee to the person's
10 residence, any building, structure or room owned, occupied, leased
11 or otherwise procured by the person or on any land owned, occupied,
12 leased or otherwise procured by the person, to possess or consume
13 any alcoholic beverage as defined by Section ~~3~~ 1-103 of this ~~act~~
14 title, any controlled dangerous substance as defined in the Uniform
15 Controlled Dangerous Substances Act, or any combination thereof, in
16 such place; or

17 15. Purchase alcoholic beverages if the person has been ordered
18 by a court to abstain or refrain from consuming alcohol as provided
19 in Section 991a of Title 22 of the Oklahoma Statutes.

20 B. Except as provided for in subsection C of this section,
21 punishment for violation of paragraph ~~13~~ 14 of subsection A of this
22 section shall be as follows:

23 1. Any person who is convicted of a violation of the provisions
24 of paragraph ~~13~~ 14 of subsection A of this section shall be deemed

1 guilty of a misdemeanor for the first offense and be punished by a
2 fine of not more than Five Hundred Dollars (\$500.00);

3 2. Any person who, within ten (10) years after previous
4 convictions of a violation:

5 a. of paragraph ~~13~~ 14 of subsection A of this section,

6 b. of the provisions of any law of another state
7 prohibiting the offense provided for in paragraph ~~13~~
8 14 of subsection A of this section, or

9 c. in a municipal criminal court of record for the
10 violation of a municipal ordinance prohibiting the
11 offense provided for in paragraph ~~13~~ 14 of subsection
12 A of this section,

13 shall be guilty of a misdemeanor and shall be punished by a fine of
14 not more than One Thousand Dollars (\$1,000.00);

15 3. Any person who, within ten (10) years after two or more
16 previous convictions of a violation:

17 a. of paragraph ~~13~~ 14 of subsection A of this section,

18 b. of the provisions of any law of another state
19 prohibiting the offense provided for in paragraph ~~13~~
20 14 of subsection A of this section, or

21 c. in a municipal criminal court of record for the
22 violation of a municipal ordinance prohibiting the
23 offense provided for in paragraph ~~13~~ 14 of subsection
24 A of this section, or

1 d. or any combination of two or more thereof,
2 shall be guilty of a felony and shall be punished by a fine of not
3 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
4 imprisonment in the custody of the Department of Corrections for not
5 more than five (5) years, or by both such fine and imprisonment.

6 C. Any person who violates paragraph ~~13~~ 14 of subsection A of
7 this section, and such actions cause great bodily injury or the
8 death of a person, shall, in addition to any other penalty provided
9 by law, be guilty of a felony, punishable by imprisonment in the
10 custody of the Department of Corrections for not more than five (5)
11 years, a fine of not less than Two Thousand Five Hundred Dollars
12 (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
13 such fine and imprisonment.

14 D. Except as provided in subsection C of Section ~~166~~ 6-126 of
15 this ~~act~~ title, any person who shall engage in any of the following
16 and disturb the peace of any person:

17 1. In any public place, or in or upon any passenger coach,
18 streetcar, or in or upon any other vehicle commonly used for the
19 transportation of passengers, or in or about any depot, platform,
20 waiting station or room, drink or otherwise consume any intoxicating
21 liquor unless authorized by this act, intoxicating substance or
22 intoxicating compound of any kind, or inhale glue, paint or other
23 intoxicating substance;

1 2. Be drunk or intoxicated in any public or private road, or in
2 any passenger coach, streetcar or any public place or building, or
3 at any public gathering, from drinking or consuming such
4 intoxicating liquor, intoxicating substance or intoxicating compound
5 or from inhalation of glue, paint or other intoxicating substance;
6 or

7 3. Be drunk or intoxicated from any cause,
8 shall be guilty of a misdemeanor, and upon conviction thereof shall
9 be punished by a fine of not less than Ten Dollars (\$10.00), nor
10 more than One Hundred Dollars (\$100.00) or by imprisonment for not
11 less than five (5) days nor more than thirty (30) days or by both
12 such fine and imprisonment.

13 SECTION 5. AMENDATORY 37 O.S. 2011, Section 538, as
14 amended by Section 14, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2016,
15 Section 538), is amended to read as follows:

16 Section 538. A. Any person who shall operate a whiskey still
17 with intent to produce alcoholic beverages or any person who shall
18 carry on the business of a distiller without having in ~~his~~ their
19 possession a valid and existing distiller's license issued pursuant
20 to the provisions of the Oklahoma Alcoholic Beverage Control Act
21 shall be guilty of a felony and upon conviction be fined not less
22 than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than
23 Five Thousand Dollars (\$5,000.00), or imprisoned in the State

24

1 Penitentiary for not more than three (3) years, or both such fine
2 and imprisonment.

3 B. Any person who shall file a false or fraudulent return in
4 connection with any tax imposed by the Oklahoma Alcoholic Beverage
5 Control Act, or willfully evade, or attempt to evade, any tax herein
6 levied shall be guilty of a felony and upon conviction be fined not
7 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more
8 than Five Thousand Dollars (\$5,000.00), or imprisoned in the State
9 Penitentiary for not more than three (3) years, or both such fine
10 and imprisonment.

11 C. Any person who shall knowingly engage in any activity or
12 perform any transaction or act for which a license is required under
13 the Oklahoma Alcoholic Beverage Control Act, not having such
14 license, shall be guilty of a misdemeanor and for the first offense
15 be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00)
16 and imprisoned for not less than thirty (30) days nor more than six
17 (6) months, and for a second or subsequent offense shall be guilty
18 of a felony and be fined not more than Two Thousand Five Hundred
19 Dollars (\$2,500.00), or imprisoned in the State Penitentiary for not
20 more than one (1) year, or both such fine and imprisonment.

21 D. Any person holding a license issued pursuant to the Oklahoma
22 Alcoholic Beverage Control Act who shall sell or deliver alcoholic
23 beverage to any person not entitled to purchase or receive same,
24 except as provided in subsection F of this section, or who shall

1 possess for sale any alcoholic beverage which ~~he~~ the person is not
2 entitled to sell under ~~his~~ the person's license, or any person who
3 buys any alcoholic beverage, either retail or wholesale, from any
4 person other than a licensed dealer under the terms of the Oklahoma
5 Alcoholic Beverage Control Act, shall be guilty of a misdemeanor and
6 upon conviction be fined not more than One Thousand Five Hundred
7 Dollars (\$1,500.00), or imprisoned in the county jail for not more
8 than six (6) months, or both such fine and imprisonment.

9 E. Any person under twenty-one (21) years of age who shall
10 misrepresent ~~his~~ their age in writing or by presenting false
11 documentation of age for the purpose of inducing ~~any person~~ another
12 to sell or serve ~~him~~ the person alcoholic beverage or issue ~~him~~ the
13 person a bottle club membership card, or who enters or attempts to
14 enter a package store or a separate or enclosed bar area as
15 designated by the ABLE Commission, shall be guilty of a misdemeanor
16 and fined not more than Fifty Dollars (\$50.00). In addition, if a
17 person is convicted or pleads guilty to a violation of the
18 provisions of this subsection in any court having jurisdiction over
19 said offense, the court may order the Department of Public Safety to
20 cancel or deny the offender's privilege to operate a motor vehicle
21 and, upon such order, shall require that the operator's or
22 chauffeur's license, if any, be surrendered to the Department
23 pursuant to Section 6-209 of Title 47 of the Oklahoma Statutes. The
24 cancellation or denial period shall be for one (1) year, or until

1 the person reaches twenty-one (21) years of age, whichever is
2 longer.

3 Any person whose driving privileges are ordered canceled or
4 denied pursuant to this section may petition the court of original
5 jurisdiction for review of the order. Upon notice and hearing, the
6 court may modify or withdraw the order as the court deems
7 appropriate except:

8 1. A court may not withdraw an order for at least ninety (90)
9 days following the issuance of the order if it is the first such
10 order issued regarding the person named; and

11 2. A court may not withdraw an order for at least six (6)
12 months following the issuance of the order if it is the second or
13 subsequent such order issued regarding the person named. If the
14 Department receives written notice from the court of original
15 jurisdiction that it has withdrawn such an order, the Department
16 shall immediately reinstate any driving privileges that have been
17 canceled or denied under this section, without requiring payment of
18 a reinstatement fee.

19 F. Any person who shall knowingly sell, furnish or give
20 alcoholic beverage to a person under twenty-one (21) years of age
21 shall be guilty of a felony, and shall be fined not less than Two
22 Thousand Five Hundred Dollars (\$2,500.00) nor more than Five
23 Thousand Dollars (\$5,000.00), or imprisoned in the State
24 Penitentiary for not more than five (5) years, or both such fine and

1 imprisonment. The ABLE Commission shall revoke the license of any
2 person convicted of a violation of this subsection.

3 G. Any person who shall knowingly sell, furnish or give
4 alcoholic beverage to an insane, mentally deficient, or intoxicated
5 person shall be guilty of a felony, and shall be fined not less than
6 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars
7 (\$1,000.00), or imprisoned in the ~~State Penitentiary~~ custody of the
8 Department of Corrections for not more than one (1) year, or both
9 such fine and imprisonment.

10 H. Any person who shall knowingly sell, furnish or give
11 alcoholic beverages to a person who has been ordered by a court to
12 abstain or refrain from consuming alcohol as provided in Section
13 991a of Title 22 of the Oklahoma Statutes shall, upon conviction, be
14 guilty of a felony punishable by a fine of not less than Five
15 Hundred Dollars (\$500.00) nor more than One Thousand Dollars
16 (\$1,000.00), or by imprisonment in the custody of the Department of
17 Corrections for not more than one (1) year, or by both such fine and
18 imprisonment.

19 I. The payment of the special tax required of liquor dealers by
20 the United States by any person within this state without a
21 corresponding state license shall constitute prima facie evidence of
22 an intention to violate the provisions of the Oklahoma Alcoholic
23 Beverage Control Act.

24

1 ~~I.~~ J. Any person selling or keeping a package store open to
2 sell any alcoholic beverage during any day or hours not authorized
3 by the Oklahoma Alcoholic Beverage Control Act shall be guilty of a
4 misdemeanor.

5 ~~J.~~ K. Any licensee permitting a person to be drunk or
6 intoxicated on the licensee's licensed premises shall be guilty of a
7 misdemeanor, and upon conviction punishable by a fine in an amount
8 not exceeding One Hundred Dollars (\$100.00), by imprisonment in the
9 county jail for a term not more than thirty (30) days, or by both
10 such fine and imprisonment.

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 6-121.1 of Title 37A, unless
13 there is created a duplication in numbering, reads as follows:

14 Any person who shall knowingly sell, furnish or give alcoholic
15 beverages to a person who has been ordered by a court to abstain or
16 refrain from consuming alcohol as provided in Section 991a of Title
17 22 of the Oklahoma Statutes shall, upon conviction, be guilty of a
18 felony punishable by a fine of not less than Five Hundred Dollars
19 (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or by
20 imprisonment in the custody of the Department of Corrections for not
21 more than one (1) year, or by both such fine and imprisonment.

22 SECTION 7. AMENDATORY 47 O.S. 2011, Section 6-107.1, is
23 amended to read as follows:

24

1 Section 6-107.1 A. When any district court, municipal court of
2 record or any municipal court in a city or town in which the judge
3 is an attorney licensed to practice law in this state has determined
4 that a person under the age of eighteen (18) years has committed any
5 offense described in subsection C of this section, ~~or that a person~~
6 ~~eighteen (18), nineteen (19), or twenty (20) years of age has~~
7 ~~committed an offense described in Section 11-906.4 of this title,~~
8 the court shall notify the Department of Public Safety on a form
9 prescribed by the Department as provided in Section 6-107.2 of this
10 title.

11 B. The notice shall include the name, date of birth, physical
12 description and, if known, the driver license number of the person.
13 The notice shall contain an order to the Department to cancel or
14 deny driving privileges for a specified period of time, except as
15 otherwise provided by law, as follows:

- 16 1. For a period of six (6) months for a first offense;
- 17 2. For a period of one (1) year for a second offense;
- 18 3. For a period of two (2) years for a third or subsequent
19 offense; or
- 20 4. In the discretion of the court, until the person attains
21 twenty-one (21) years of age, if that period of time would be longer
22 than the period of time provided in paragraph 1, 2 or 3 of this
23 subsection.

24

1 Provided, however, if the person is less than sixteen (16) years
2 of age at the time of the determination, and the person will be less
3 than sixteen (16) years of age at the end of the period of
4 cancellation or denial, the Department shall extend the period of
5 cancellation or denial to the date the person attains sixteen (16)
6 years of age.

7 The court shall send a copy of the notice to the person first
8 class, postage prepaid.

9 C. In addition to the administrative revocation of driving
10 privileges pursuant to Section 754 of this title, and the mandatory
11 revocation of driving privileges pursuant to Section 6-205.1 of this
12 title, this section applies to any crime, violation, infraction,
13 traffic offense or other offense involving or relating to the
14 possession, use, sale, purchase, transportation, distribution,
15 manufacture, or consumption of beer, alcohol, or any beverage
16 containing alcohol and to any crime, violation, infraction, traffic
17 offense or other offense involving or relating to the possession,
18 use, sale, purchase, transportation, distribution, manufacture,
19 trafficking, cultivation, consumption, ingestion, inhalation,
20 injection, or absorption of any controlled dangerous substance as
21 defined by paragraph 8 of Section 2-101 of Title 63 of the Oklahoma
22 Statutes or any substance which is capable of being ingested,
23 inhaled, injected, or absorbed into the human body and is capable of
24

1 adversely affecting the central nervous system, vision, hearing, or
2 other sensory or motor functions.

3 D. When any district court, municipal court of record or any
4 municipal court in a city or town in which the judge is an attorney
5 licensed to practice law in this state has determined that a person
6 under the age of twenty-one (21) years has committed an offense
7 described in Section 11-906.4 of this title, the court shall notify
8 the Department of Public Safety on a form prescribed by the
9 Department as provided in Section 6-107.2 of this title.

10 E. The notice shall include the name, date of birth, physical
11 description and, if known, the driver license number of the person.
12 The notice shall contain an order to the Department to cancel or
13 deny driving privileges until the person attains twenty-one (21)
14 years of age. The court shall send a copy of the notice to the
15 person first-class, postage prepaid.

16 SECTION 8. AMENDATORY 47 O.S. 2011, Section 6-107.2, is
17 amended to read as follows:

18 Section 6-107.2 A. The Department of Public Safety shall
19 prepare and distribute a Notification form to be used by the courts,
20 as provided in Section 6-107.1 of this title. In addition to any
21 other authority to cancel or deny driving privileges, the Department
22 of Public Safety shall, upon receipt of such completed Notification
23 form from a court, cancel or deny all driving privileges of the
24

1 person named in the Notification form without hearing, for a period
2 of time recommended by the court.

3 ~~B. Upon receipt of a second or subsequent Notification from a~~
4 ~~court relating to the same person, the Department shall cancel or~~
5 ~~deny driving privileges of the person for a period of two (2) years~~
6 ~~or until the person attains eighteen (18) years of age, whichever is~~
7 ~~longer.~~

8 ~~C.~~ Any person whose driving privileges are canceled or denied
9 pursuant to this section may file a petition for relief based upon
10 error or hardship.

11 1. The petition shall be filed in the district court which
12 notified the Department pursuant to Section 6-107.1 of this title
13 or, if the Notification originated in a municipal court, the
14 petition shall be filed in the district court of the county in which
15 the court is located. A copy of the Notification and a copy of the
16 Department's action canceling or denying driving privileges pursuant
17 to this section~~7~~ shall be attached to the petition.

18 2. The district court shall conduct a hearing on the petition
19 and may determine the matter de novo, without notice to the
20 Department~~7~~ and~~7~~ if applicable, without notice to the municipal
21 court; provided, the district court shall not consider a collateral
22 attack upon the merits of any conviction or determination which has
23 become final.

24

1 3. The district court may deny the petition, ~~or,~~ in its
2 discretion, issue a written Order to the Department to increase or
3 decrease the period of cancellation or denial to any period or issue
4 a written Order to vacate the Department's action taken pursuant to
5 this section, in its entirety. The content of the Order shall not
6 grant or purport to grant any driving privileges to the person,
7 however such order may direct the Department of Public Safety to do
8 so if the person is otherwise eligible therefor.

9 ~~D.~~ Upon receipt of a written Order from the appropriate court,
10 the Department shall modify or reinstate any driving privileges as
11 provided in the Order.

12 SECTION 9. AMENDATORY 47 O.S. 2011, Section 6-111, as
13 last amended by Section 1, Chapter 214, O.S.L. 2016 (47 O.S. Supp.
14 2016, Section 6-111), is amended to read as follows:

15 Section 6-111. A. 1. The Department of Public Safety shall,
16 upon payment of the required fee, issue to every applicant
17 qualifying therefor a Class A, B, C or D driver license or
18 identification card as applied for, which license or card shall bear
19 thereon a distinguishing alphanumeric identification assigned to the
20 licensee or cardholder, date of issuance and date of expiration of
21 the license or card, the full name, signature or computerized
22 signature, date of birth, residence address, sex, a color photograph
23 or computerized image of the licensee or cardholder and security
24 features as determined by the Department. The photograph or image

1 shall depict a full front unobstructed view of the entire face of
2 the licensee or cardholder; provided, a commercial learner permit
3 shall not bear the photograph or image of the licensee. When any
4 person is issued both a driver license and an identification card,
5 the Department shall ensure the information on both the license and
6 the card are the same, unless otherwise provided by law.

7 2. A driver license or identification card issued by the
8 Department on or after March 1, 2004, shall bear thereon the county
9 of residence of the licensee or cardholder.

10 3. The Department may cancel the distinguishing number, when
11 that distinguishing number is another person's Social Security
12 number, assign a new distinguishing alphanumeric identification, and
13 issue a new license or identification card without charge to the
14 licensee or cardholder.

15 4. The Department may promulgate rules for inclusion of the
16 height and a brief description of the licensee or cardholder on the
17 face of the card or license identifying the licensee or cardholder
18 as deaf or hard-of-hearing.

19 5. It is unlawful for any person to apply, adhere, or otherwise
20 attach to a driver license or identification card any decal,
21 sticker, label, or other attachment. Any law enforcement officer is
22 authorized to remove and dispose of any unlawful decal, sticker,
23 label, or other attachment from the driver license of a person. The
24 law enforcement officer, the employing agency of the officer, the

1 Department of Public Safety, and the State of Oklahoma shall be
2 immune from any liability for any loss suffered by the licensee,
3 cardholder, or the owner of the decal, sticker, label, or other
4 attachment caused by the removal and destruction of the decal,
5 sticker, label, or other attachment.

6 6. The Department of Public Safety may develop by rule an
7 alternative procedure whereby a person may apply for a renewal or
8 replacement Oklahoma Class D license or Oklahoma identification
9 card.

10 B. The Department may issue a temporary permit to an applicant
11 for a driver license permitting such applicant to operate a motor
12 vehicle while the Department is completing its investigation and
13 determination of all facts relative to such applicant's privilege to
14 receive a license. Such permit must be in the immediate possession
15 of the driver while operating a motor vehicle, and it shall be
16 invalid when the applicant's driver license has been issued or for
17 good cause has been refused.

18 C. 1. The Department may issue a restricted commercial driver
19 license to drivers eighteen (18) years of age or older for any of
20 the following specific farm-related service industries:

- 21 a. farm retail outlets and suppliers,
- 22 b. agri-chemical businesses,
- 23 c. custom harvesters, and
- 24 d. livestock feeders.

1 The applicant shall hold a valid Oklahoma driver license and
2 shall meet all the requirements for a commercial driver license.
3 The restricted commercial driver license shall not exceed a total of
4 one hundred eighty (180) days within any twelve-month period.

5 2. The restricted commercial driver license shall not be valid
6 for operators of commercial motor vehicles beyond one hundred fifty
7 (150) miles from the place of business or the farm currently being
8 served. Such license shall be limited to Class B vehicles. Holders
9 of such licenses who transport hazardous materials which are
10 required to be placarded shall be limited to the following:

- 11 a. diesel fuel in quantities of one thousand (1,000)
12 gallons or less,
- 13 b. liquid fertilizers in vehicles with total capacities
14 of three thousand (3,000) gallons or less, and
- 15 c. solid fertilizers that are not mixed with any organic
16 substance.

17 No other placarded hazardous materials shall be transported by
18 holders of such licenses.

19 D. The Department may issue a non-domiciled commercial learner
20 permit or a non-domiciled commercial driver license to:

21 1. An H2A-Temporary Agricultural worker lawfully present in the
22 United States as indicated on an original, valid and unexpired I-94
23 immigration status document issued by the United States Customs and
24 Immigration Service; and

1 2. A J-1 Exchange Visitor Program participant lawfully present
2 in the United States as indicated on a valid and unexpired J-1
3 Visitor Visa issued by the United States Customs and Immigration
4 Service and who is enrolled in an agricultural education training
5 program.

6 A person applying for such permit or license must comply with
7 all testing and licensing requirements in accordance with applicable
8 federal regulations, state laws and Department rules. The issued
9 license shall be valid until the expiration of the visa for the non-
10 domiciled worker. The Department may promulgate rules for the
11 implementation of the process to carry out the provisions of this
12 section.

13 E. 1. The Department shall develop a procedure whereby a
14 person applying for an original, renewal or replacement Class A, B,
15 C or D driver license or identification card who is required to
16 register as a convicted sex offender with the Department of
17 Corrections pursuant to the provisions of the Sex Offenders
18 Registration Act and who the Department of Corrections designates as
19 an aggravated or habitual offender pursuant to subsection ~~7~~ N of
20 Section 584 of Title 57 of the Oklahoma Statutes shall be issued a
21 license or card bearing the words "Sex Offender".

22 2. The Department shall notify every person subject to
23 registration under the provisions of Section 1-101 et seq. of this
24 title who holds a current Class A, B, C or D driver license or

1 identification card that such person is required to surrender the
2 license or card to the Department within one hundred eighty (180)
3 days from the date of the notice.

4 3. Upon surrendering the license or card for the reason set
5 forth in this subsection, application may be made with the
6 Department for a replacement license or card bearing the words "Sex
7 Offender".

8 4. Failure to comply with the requirements set forth in such
9 notice shall result in cancellation of the person's license or card.
10 Such cancellation shall be in effect for one (1) year, after which
11 time the person may make application with the Department for a new
12 license or card bearing the words "Sex Offender". Continued use of
13 a canceled license or card shall constitute a misdemeanor and shall,
14 upon conviction thereof, be punishable by a fine of not less than
15 Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars
16 (\$200.00). When an individual is no longer required to register as
17 a convicted sex offender with the Department of Corrections pursuant
18 to the provisions of the Sex Offenders Registration Act, the
19 individual shall be eligible to receive a driver license or
20 identification card which does not bear the words "Sex Offender".

21 F. Nothing in subsection E of this section shall be deemed to
22 impose any liability upon or give rise to a cause of action against
23 any employee, agent or official of the Department of Corrections for
24 failing to designate a sex offender as an aggravated or habitual

1 offender pursuant to subsection ~~¶~~ N of Section 584 of Title 57 of
2 the Oklahoma Statutes.

3 G. The Department shall develop a procedure whereby a person
4 subject to an order for the installation of an ignition interlock
5 device shall be required by the Department to submit their driver
6 license for a replacement. The replacement driver license shall
7 bear the words "Interlock Required" and such designation shall
8 remain on the driver license for the duration of the order requiring
9 the ignition interlock device. The replacement license shall be
10 subject to the same expiration and renewal procedures provided by
11 law. Upon completion of the requirements for the interlock device,
12 a person may apply for a replacement driver license.

13 H. The Department shall develop a procedure whereby a person
14 subject to an order by a court to abstain or refrain from consuming
15 alcohol as provided in Section 991a of Title 22 of the Oklahoma
16 Statutes shall be required by the Department to submit his or her
17 driver license or identification card for a replacement. The
18 replacement driver license or identification card shall bear the
19 words "Alcohol Restricted" and such designation shall remain on the
20 driver license or identification card for a period of three (3)
21 years. The replacement driver license or identification card shall
22 be subject to the same expiration and renewal procedures provided by
23 law. Upon completion of the requirements for the order by the court
24

1 to abstain or refrain from consuming alcohol, a person may apply for
2 a replacement driver license or identification card.

3 I. The Department shall develop a procedure whereby a person
4 applying for an original, renewal or replacement Class D driver
5 license who has been granted modified driving privileges under this
6 title shall be issued a Class D driver license which identifies the
7 license as a modified license.

8 SECTION 10. AMENDATORY 47 O.S. 2011, Section 6-205.1, as
9 amended by Section 1, Chapter 393, O.S.L. 2013 (47 O.S. Supp. 2016,
10 Section 6-205.1), is amended to read as follows:

11 Section 6-205.1 A. ~~The~~ Except as provided for in subsection F
12 of this section, the driving privilege of a person twenty-one (21)
13 years of age or older who is convicted of any offense as provided in
14 paragraph 2 of subsection A of Section 6-205 of this title, or a
15 person who has refused to submit to a test or tests as provided in
16 Section 753 of this title, or a person whose alcohol concentration
17 is subject to the provisions of Section 754 of this title, shall be
18 revoked or denied by the Department of Public Safety for the
19 following period, as applicable:

20 1. The first license revocation pursuant to paragraph 2 of
21 subsection A of Section 6-205 of this title or to Section 753 or 754
22 of this title shall be for one hundred eighty (180) days, which may
23 be modified; provided, any modification under this paragraph shall
24 apply to Class D motor vehicles only;

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

7 a. a prior revocation commenced pursuant to paragraph 2
8 or 6 of subsection A of Section 6-205 of this title,
9 or to Section 753 or 754 of this title, or

10 b. the record of the person reflects a prior conviction
11 in another jurisdiction which did not result in a
12 revocation of Oklahoma driving privileges, for a
13 violation substantially similar to paragraph 2 of
14 subsection A of Section 6-205 of this title, and the
15 person was not a resident or a licensee of Oklahoma at
16 the time of the offense resulting in the conviction.

17 Such one-year period of revocation may be modified; provided, any
18 modification under this paragraph shall apply to Class D motor
19 vehicles only. For any modification, the person shall be required
20 to install an ignition interlock device or devices, pursuant to
21 Section 754.1 of this title. The period of revocation and the
22 period of interlock installation shall run concurrently and each
23 shall be for no less than one (1) year; or

1 3. A revocation pursuant to paragraph 2 of subsection A of
2 Section 6-205 of this title, or to Section 753 or 754 of this title
3 shall be for a period of three (3) years or longer if driving
4 privileges are modified pursuant to the provisions of this paragraph
5 if within ten (10) years preceding the date of arrest relating
6 thereto, as shown by the records of the Department:

7 a. two or more prior revocations commenced pursuant to
8 paragraph 2 or 6 of subsection A of Section 6-205 of
9 this title, or to Section 753 or 754 of this title,

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

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

21 Such three-year period of revocation may be modified; provided, any
22 modification under this paragraph shall apply to Class D motor
23 vehicles only. For any modification, the person shall be required
24 to install an ignition interlock device or devices, pursuant to

1 Section 754.1 of this title. The period of revocation and the
2 period of interlock installation shall run concurrently and each
3 shall be for no less than three (3) years.

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

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

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

18 a. a prior revocation commenced pursuant to paragraph 2
19 or 6 of subsection A of Section 6-205 of this title,
20 or under Section 753 or 754 of this title, or

21 b. the record of the person reflects a prior conviction
22 in another jurisdiction which did not result in a
23 revocation of Oklahoma driving privileges, for a
24 violation substantially similar to paragraph 2 or 6 of

1 subsection A of Section 6-205 of this title, and the
2 person was not a resident or a licensee of Oklahoma at
3 the time of the offense resulting in the conviction.

4 Such period shall not be modified; or

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

8 a. two or more prior revocations commenced pursuant to
9 paragraph 2 or 6 of subsection A of Section 6-205 of
10 this title, or under Section 753 or 754 of this title,

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

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

21 Such period shall not be modified.

22 The revocation of the driving privilege of any person under this
23 subsection shall not run concurrently with any other withdrawal of
24 driving privilege resulting from a different incident and which

1 requires the driving privilege to be withdrawn for a prescribed
2 amount of time. A denial based on a conviction of any offense as
3 provided in paragraph 6 of subsection A of Section 6-205 of this
4 title shall become effective on the first day the convicted person
5 is otherwise eligible to apply for and be granted driving privilege
6 if the person was not eligible to do so at the time of the
7 conviction.

8 C. For the purposes of this subsection:

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

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

14 D. Each period of revocation not subject to modification shall
15 be mandatory and neither the Department nor any court shall grant
16 driving privileges based upon hardship or otherwise for the duration
17 of that period. Each period of revocation, subject to modification
18 as provided for in this section, may be modified as provided for in
19 Section 754.1 or 755 of this title; provided, any modification under
20 this paragraph shall apply to Class D motor vehicles only.

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

23 F. Any person under the age of twenty-one (21) years who is
24 convicted of an offense described in Section 11-906.4 of this title

1 shall have driving privileges revoked or denied by the Department of
2 Public Safety until the person attains twenty-one (21) years of age.
3 Such period may be modified; provided, any modification under this
4 subsection shall apply to Class D motor vehicles only.

5 SECTION 11. AMENDATORY 47 O.S. 2011, Section 11-906.4,
6 is amended to read as follows:

7 Section 11-906.4 A. It is unlawful, and punishable as provided
8 in subsection B of this section, for any person under twenty-one
9 (21) years of age to drive, operate, or be in actual physical
10 control of a motor vehicle within this state who:

11 1. Has any measurable quantity of alcohol in the person's blood
12 or breath at the time of a test administered within two (2) hours
13 after an arrest of the person;

14 2. Exhibits evidence of being under the influence of any other
15 intoxicating substance as shown by analysis of a specimen of the
16 person's blood, breath, saliva, or urine in accordance with the
17 provisions of Sections 752 and 759 of this title; or

18 3. Exhibits evidence of the combined influence of alcohol and
19 any other intoxicating substance.

20 B. Any person under twenty-one (21) years of age who violates
21 any provision of this section shall be subject to the seizure of the
22 driver license of that person at the time of arrest or detention and
23 the person, upon conviction, shall be guilty of operating or being
24

1 in actual physical control of a motor vehicle while under the
2 influence while under age and shall be punished:

3 1. For a first conviction, by:

- 4 a. a fine of not less than One Hundred Dollars (\$100.00)
- 5 nor more than Five Hundred Dollars (\$500.00),
- 6 b. assignment to and completion of twenty (20) hours of
- 7 community service,
- 8 c. requiring the person to attend and complete a
- 9 treatment program, or
- 10 d. any combination of fine, community service, or
- 11 treatment;

12 2. Upon a second conviction, by:

- 13 a. assignment to and completion of not less than two
- 14 hundred forty (240) hours of community service, and
- 15 b. the requirement, after the conclusion of the mandatory
- 16 revocation period, to install an ignition interlock
- 17 device or devices, as provided by subparagraph n of
- 18 paragraph 1 of subsection A of Section 991a of Title
- 19 22 of the Oklahoma Statutes, for a period of not less
- 20 than thirty (30) days.

21 In addition, a second conviction may be punished by a fine of not
22 less than One Hundred Dollars (\$100.00) nor more than One Thousand
23 Dollars (\$1,000.00), or by requiring the person to attend and
24 complete a treatment program, as recommended by the assessment

1 required pursuant to subparagraph c of paragraph 2 of subsection D
2 of this section, or by both; or

3 3. Upon a third or subsequent conviction, by:

4 a. assignment to and completion of not less than four
5 hundred eighty (480) hours of community service, and

6 b. the requirement, after the conclusion of the mandatory
7 revocation period, to install an ignition interlock
8 device or devices, as provided by subparagraph n of
9 paragraph 1 of subsection A of Section 991a of Title
10 22 of the Oklahoma Statutes, for a period of not less
11 than thirty (30) days.

12 In addition, a third or subsequent conviction may be punished by a
13 fine of not less than One Hundred Dollars (\$100.00) nor more than
14 Two Thousand Dollars (\$2,000.00), or by requiring the person to
15 attend and complete a treatment program, as recommended by the
16 assessment required pursuant to subparagraph c of paragraph 2 of
17 subsection D of this section, or by both.

18 C. The court may assess additional community service hours in
19 lieu of any fine specified in this section.

20 D. In addition to any penalty or condition imposed pursuant to
21 the provisions of this section, the person shall be subject to:

22 1. Upon a first conviction:
23
24

- 1 a. the cancellation or denial of driving privileges as
2 ordered by the court pursuant to subsection B of
3 Section 6-107.1 of this title,
4 b. the mandatory revocation of driving privileges
5 pursuant to Section 6-205.1, 753 or 754 of this title,
6 which revocation period may be modified as provided by
7 law, and
8 c. the continued installation of an ignition interlock
9 device or devices, at the expense of the person, as
10 provided in subsection D of Section 6-212.3 of this
11 title, after the mandatory period of cancellation,
12 denial or revocation for a period as provided in
13 paragraph 1 of subsection A of Section 6-212.3 of this
14 title;

15 2. Upon a second conviction:

- 16 a. the cancellation or denial of driving privileges, as
17 ordered by the court pursuant to subsection ~~B~~ E of
18 Section ~~6-107.2~~ 6-107.1 of this title,
19 b. the mandatory revocation of driving privileges
20 pursuant to Section 6-205.1, 753 or 754 of this title,
21 which period may be modified as provided by law,
22 c. an assessment of the person's degree of alcohol abuse,
23 in the same manner as prescribed in subsection ~~H~~ G of
24

1 Section 11-902 of this title, which may result in
2 treatment as deemed appropriate by the court, and
3 d. the continued installation of an ignition interlock
4 device or devices, at the expense of the person, as
5 provided in subsection D of Section 6-212.3 of this
6 title, after the mandatory period of cancellation,
7 denial or revocation for a period as provided in
8 paragraph 2 of subsection A of Section 6-212.3 of this
9 title; and

10 3. Upon a third or subsequent conviction:

11 a. the cancellation or denial of driving privileges as
12 ordered by the court pursuant to subsection ~~B~~ E of
13 Section ~~6-107.2~~ 6-107.1 of this title,

14 b. the mandatory revocation of driving privileges
15 pursuant to Section 6-205.1, 753 or 754 of this title,
16 which period may be modified as provided by law,

17 c. an assessment of the person's degree of alcohol abuse,
18 in the same manner as prescribed in subsection ~~H~~ G of
19 Section 11-902 of this title, which may result in

20 treatment as deemed appropriate by the court, and
21 d. the continued installation of an ignition interlock
22 device or devices, at the expense of the person, as
23 provided in subsection D of Section 6-212.3 of this
24 title, after the mandatory period of cancellation,

1 denial, or revocation for a period as provided in
2 paragraph 3 of subsection A of Section 6-212.3 of this
3 title.

4 E. Nothing in this section shall be construed to prohibit the
5 filing of charges pursuant to Section 761 or 11-902 of this title
6 when the facts warrant.

7 F. As used in this section:

8 1. The term "conviction" includes a juvenile delinquency
9 adjudication by a court; and

10 2. The term "revocation" includes the cancellation or denial of
11 driving privileges by the Department.

12 SECTION 12. Sections 1, 2, 3, 5, 7, 8, 9, 10 and 11 of this act
13 shall become effective November 1, 2017. Sections 4 and 6 of this
14 act shall become effective October 1, 2018.

15
16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND
17 CORRECTIONS, dated 02/22/2017 - DO PASS.