

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1065

By: Montgomery

6
7 COMMITTEE SUBSTITUTE

8 [ignition interlock devices - Impaired Driver
9 Accountability Program - forfeiture of motor vehicles
- effective date]

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

13 SECTION 1. AMENDATORY 47 O.S. 2021, Section 11-902a, is
14 amended to read as follows:

15 Section 11-902a. A. No person shall knowingly authorize or
16 permit a motor vehicle owned or under the control of that person
17 which is not equipped with an ignition interlock device to be driven
18 upon any street or highway of this state by any person who is
19 required to have an ignition interlock device installed upon the
20 vehicle of that person.

21 B. No person shall willfully attempt to interfere in any way
22 with the intended and proper functioning of an ignition interlock
23 device installed in a vehicle as required by law, or intentionally
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1 fail to return an ignition interlock device when it is no longer
2 required in the vehicle or upon request by the owner of the device.

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

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

13 E. A violation of subsection C of this section shall be a
14 misdemeanor punishable by a fine of Five Hundred Dollars (\$500.00)
15 and by imprisonment in the county jail for not fewer than thirty
16 (30) days but not more than six (6) months. Such punishment may be
17 waived by the court only for a person who enrolls in and completes
18 the Impaired Driver Accountability Program (IDAP) established
19 pursuant to Section 6-212.5 of this title. Any person who is not
20 eligible for participation in IDAP or fails to fully enroll in IDAP
21 within forty-five (45) days of the court order shall be ineligible
22 for the waiver and shall be punished in accordance with this
23 subsection.

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1 SECTION 2. AMENDATORY 47 O.S. 2021, Section 11-902b, is
2 amended to read as follows:

3 Section 11-902b. A. The district attorney may file a motion
4 requesting forfeiture of the motor vehicle involved in the
5 commission of an eligible offense as provided in this section. The
6 provisions of this section shall apply to:

7 1. Any person who has been previously convicted of an offense
8 under Section 11-902, 11-902a, 11-903, or 11-904 of this title and
9 who on or after July 1, 1999, is convicted of an offense under
10 Section 11-902, 11-902a, 11-903, or 11-904 of this title within ten
11 (10) years of any prior conviction under Section 11-902, 11-902a,
12 11-903, or 11-904 of this title and where at least one of the
13 offenses, current or prior, involved the death of or serious bodily
14 injury to another person; or

15 2. Any person who has been convicted of a third or subsequent
16 felony offense under Section 11-902 of this title.

17 B. A motion for forfeiture may be filed at the time of charging
18 but not later than thirty (30) days after the verdict or plea of
19 guilty or nolo contendere. If a motion of intent to forfeit is
20 filed prior to the verdict or plea of guilty or nolo contendere, the
21 proceedings shall be stayed until the disposition of the criminal
22 case. Notice shall be required even though the proceedings are
23 stayed. If the motion is filed prior to the disposition on the
24 criminal case, the district attorney shall notify the Oklahoma Tax

1 Commission and the Tax Commission shall place a lien upon the
2 vehicle title. No person shall sell, damage, destroy, transfer or
3 perfect a security interest on any vehicle subject to forfeiture.
4 Prior to filing a motion for forfeiture, the district attorney shall
5 verify whether the vehicle was sold during any period of impoundment
6 as provided by law. Any vehicle sold in an impound sale to pay
7 towing, wrecker services or storage expenses shall not be subject to
8 forfeiture as provided in this section.

9 C. Upon filing a motion for forfeiture, except when the
10 proceedings are stayed pursuant to subsection B of this section, the
11 court shall schedule a hearing on the matter. The hearing shall be
12 not less than twenty (20) days nor more than forty-five (45) days
13 from the date the motion is filed. The district attorney within
14 three (3) days of filing a motion of intent to forfeit shall notify
15 the convicted person, lienholders of record, and any person
16 appearing to have an ownership or security interest in the vehicle.
17 The notice shall contain the date, time and place of the hearing.
18 When a motion for forfeiture has been stayed pending disposition of
19 the criminal case and a verdict or plea of guilty or nolo contendere
20 has been entered, the district attorney shall give notice of the
21 forfeiture hearing not less than ten (10) days prior to the hearing.
22 The notice of persons specified in this subsection shall be by
23 certified mail to the address shown upon the records of the Oklahoma
24 Tax Commission. For owners or interested parties, other than

1 lienholders of record, whose addresses are unknown, but who are
2 believed to have an interest in the vehicle, notice shall be by one
3 publication in a newspaper of general circulation in the county
4 where the motion is filed. The written notice shall include:

- 5 1. A full description of the motor vehicle;
- 6 2. The date, time and place of the forfeiture hearing;
- 7 3. The legal authority under which the motor vehicle may be
8 forfeited; and
- 9 4. Notice of the right to intervene to protect an interest in
10 the motor vehicle.

11 D. A forfeiture proceeding shall not extinguish any security
12 interest of a lienholder of record; provided, however, the court may
13 order the sale of the motor vehicle and the satisfaction of that
14 security interest from the proceeds of sale as provided in
15 subsection K of this section.

16 For purposes of a forfeiture proceeding, an affidavit obtained
17 from the lienholder of record, in the absence of evidence of bad
18 faith, shall be prima facie evidence of the amount of secured
19 indebtedness owed to that lienholder. It shall be the
20 responsibility of the district attorney to obtain such affidavit
21 prior to the forfeiture proceeding.

22 In the absence of evidence of bad faith, no lienholder of record
23 shall be required to attend the forfeiture proceeding to protect its
24 interest in the motor vehicle. However, each lienholder of record

1 shall be given notice of the forfeiture hearing as provided in
2 subsection C of this section. The district attorney shall notify
3 each lienholder of record at least ten (10) days before the sale of
4 the motor vehicle ordered forfeited pursuant to this section;
5 provided, the lienholder was not represented at the forfeiture
6 proceeding.

7 E. Any person having an ownership or security interest in a
8 vehicle subject to forfeiture which is not perfected by a lien of
9 record may file a written objection to the motion to forfeit within
10 ten (10) days of the mailing of the notice of intent to forfeit.

11 F. At the hearing, any person who claims an ownership or
12 security interest in the motor vehicle which is not perfected by a
13 lien of record shall be required to establish by a preponderance of
14 the evidence that:

15 1. The person has an interest in the motor vehicle and such
16 interest was acquired in good faith;

17 2. The person is not the person convicted of the offense that
18 resulted in the forfeiture proceeding; and

19 3. The person did not know or have reasonable cause to believe
20 that the vehicle would be used in the commission of a felony
21 offense.

22 G. If a person satisfies the requirements of subsection F of
23 this section, or if there is a lienholder of record that has
24 provided an affidavit pursuant to subsection D of this section, the

1 court shall order either an amount equal to the value of the
2 interest of that person in the motor vehicle to be paid to that
3 person upon sale of the motor vehicle after payment of costs and
4 expenses or release the vehicle from the forfeiture proceedings if
5 either the lienholder described in subsection D of this section or
6 the person intervening in accordance with subsection F of this
7 section has full right, title and interest in the vehicle.

8 H. At the hearing, the court may order the forfeiture of the
9 motor vehicle if it is determined by a preponderance of the evidence
10 that the forfeiture of the motor vehicle will serve one or more of
11 the following purposes:

12 1. Incapacitation of the convicted person from the commission
13 of any future offense under Section 11-902, 11-903, or 11-904 of
14 this title;

15 2. Protection of the safety and welfare of the public;

16 3. Deterrence of other persons who are potential offenders
17 under Section 11-902, 11-903, or 11-904 of this title;

18 4. Expression of public condemnation of the serious or
19 aggravated nature of the conduct of the convicted person; or

20 5. Satisfaction of monetary amounts for criminal penalties.

21 I. Upon forfeiture of a motor vehicle pursuant to this act, the
22 court shall require the owner to surrender the motor vehicle, the
23 certificate of title, and the registration of the motor vehicle.

24 The vehicle, the certificate of title, and the registration shall be

1 delivered to the Department of Public Safety within three (3) days
2 of the forfeiture order. The expense of delivering the vehicle
3 shall be paid by the district attorney. Costs of delivering the
4 vehicle to the Department shall be reimbursable as costs of
5 conducting the sale. A motor vehicle forfeited pursuant to this
6 act, shall be sold by the Department of Public Safety as provided by
7 law for the sale of other forfeited property, except as otherwise
8 provided in this section.

9 J. If a vehicle was impounded at the time of delivery to the
10 Department and a forfeiture order is subsequently issued, all
11 towing, wrecker services, and storage expenses shall be satisfied
12 from the sale of the vehicle. If a vehicle is released from
13 forfeiture and the vehicle has been delivered to the Department with
14 impound expenses still owing, all impound expenses, including
15 towing, wrecker service and storage expenses, shall be paid by the
16 person prevailing on the dismissal of the forfeiture proceeding and
17 the release of the vehicle to such person. If a notice for sale of
18 the vehicle was filed for satisfaction of impound expenses prior to
19 the filing of a motion for forfeiture, the vehicle shall be sold as
20 provided by law for unpaid towing, wrecker services, and storage
21 expenses and shall not be subject to forfeiture. If the convicted
22 person redeems his or her interest in the vehicle at a sale for
23 impound expenses, a forfeiture proceeding may thereafter proceed as
24 authorized by this act. Neither the notice of sale for towing,

1 wrecker services, and storage expenses nor the sale of such vehicle
2 for impound expenses shall serve to extend the requirement for
3 filing a motion to forfeit as provided in subsection B of this
4 section.

5 K. Except as provided in subsection J of this section, proceeds
6 from the sale of any vehicle forfeited pursuant to this act shall be
7 paid in the following order:

8 1. To satisfy the interest of any lienholder of record;

9 2. To the Department of Public Safety for the cost of
10 conducting the sale, including expense of delivery, court filing
11 fees, and publication expense;

12 3. To satisfy impound expenses, including any towing, wrecker
13 service and storage expenses incurred prior to delivery to the
14 Department of Public Safety;

15 4. To satisfy the interest of any person making proof as
16 provided in subsection F of this section;

17 5. To satisfy criminal penalties, costs and assessments
18 pursuant to paragraph 5 of subsection H of this section if so
19 ordered by the court;

20 6. To the office of the district attorney who filed the
21 forfeiture proceeding not exceeding twenty-five percent (25%) of any
22 remaining proceeds. Such payment shall be deposited in a special
23 fund for such purpose as determined by the district attorney's
24 office; and

1 7. The balance of the proceeds to be deposited in the Drug
2 Abuse Education and Treatment Revolving Fund established pursuant to
3 Section 2-503.2 of Title 63 of the Oklahoma Statutes for the benefit
4 of drug court treatment as provided by law.

5 L. If a motor vehicle subject to forfeiture as provided by this
6 act is a vehicle leased pursuant to a commercial rental agreement
7 for a period of ninety (90) days or less, then the vehicle shall not
8 be subject to the forfeiture proceedings provided by this act.

9 M. Upon the court dismissing a forfeiture proceeding, any lien
10 placed upon the vehicle title by the Oklahoma Tax Commission
11 pursuant to subsection B of this section shall be released.

12 SECTION 3. This act shall become effective November 1, 2023.

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