

1 **SENATE FLOOR VERSION**

2 February 28, 2023

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1065

6 By: Montgomery

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

10  
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

22 SECTION 2. AMENDATORY 47 O.S. 2021, Section 11-902b, is  
23 amended to read as follows:  
24

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

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

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

15 B. A motion for forfeiture may be filed at the time of charging  
16 but not later than thirty (30) days after the verdict or plea of  
17 guilty or nolo contendere. If a motion of intent to forfeit is  
18 filed prior to the verdict or plea of guilty or nolo contendere, the  
19 proceedings shall be stayed until the disposition of the criminal  
20 case. Notice shall be required even though the proceedings are  
21 stayed. If the motion is filed prior to the disposition on the  
22 criminal case, the district attorney shall notify the Oklahoma Tax  
23 Commission and the Tax Commission shall place a lien upon the  
24 vehicle title. No person shall sell, damage, destroy, transfer or

1 perfect a security interest on any vehicle subject to forfeiture.  
2 Prior to filing a motion for forfeiture, the district attorney shall  
3 verify whether the vehicle was sold during any period of impoundment  
4 as provided by law. Any vehicle sold in an impound sale to pay  
5 towing, wrecker services or storage expenses shall not be subject to  
6 forfeiture as provided in this section.

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

1 publication in a newspaper of general circulation in the county  
2 where the motion is filed. The written notice shall include:

- 3 1. A full description of the motor vehicle;
- 4 2. The date, time and place of the forfeiture hearing;
- 5 3. The legal authority under which the motor vehicle may be  
6 forfeited; and

- 7 4. Notice of the right to intervene to protect an interest in  
8 the motor vehicle.

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

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

20 In the absence of evidence of bad faith, no lienholder of record  
21 shall be required to attend the forfeiture proceeding to protect its  
22 interest in the motor vehicle. However, each lienholder of record  
23 shall be given notice of the forfeiture hearing as provided in  
24 subsection C of this section. The district attorney shall notify

1 each lienholder of record at least ten (10) days before the sale of  
2 the motor vehicle ordered forfeited pursuant to this section;  
3 provided, the lienholder was not represented at the forfeiture  
4 proceeding.

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

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

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

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

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

20 G. If a person satisfies the requirements of subsection F of  
21 this section, or if there is a lienholder of record that has  
22 provided an affidavit pursuant to subsection D of this section, the  
23 court shall order either an amount equal to the value of the  
24 interest of that person in the motor vehicle to be paid to that

1 person upon sale of the motor vehicle after payment of costs and  
2 expenses or release the vehicle from the forfeiture proceedings if  
3 either the lienholder described in subsection D of this section or  
4 the person intervening in accordance with subsection F of this  
5 section has full right, title and interest in the vehicle.

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

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

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

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

16 4. Expression of public condemnation of the serious or  
17 aggravated nature of the conduct of the convicted person; or

18 5. Satisfaction of monetary amounts for criminal penalties.

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

22 The vehicle, the certificate of title, and the registration shall be  
23 delivered to the Department of Public Safety within three (3) days  
24 of the forfeiture order. The expense of delivering the vehicle

1 shall be paid by the district attorney. Costs of delivering the  
2 vehicle to the Department shall be reimbursable as costs of  
3 conducting the sale. A motor vehicle forfeited pursuant to this  
4 act, shall be sold by the Department of Public Safety as provided by  
5 law for the sale of other forfeited property, except as otherwise  
6 provided in this section.

7 J. If a vehicle was impounded at the time of delivery to the  
8 Department and a forfeiture order is subsequently issued, all  
9 towing, wrecker services, and storage expenses shall be satisfied  
10 from the sale of the vehicle. If a vehicle is released from  
11 forfeiture and the vehicle has been delivered to the Department with  
12 impound expenses still owing, all impound expenses, including  
13 towing, wrecker service and storage expenses, shall be paid by the  
14 person prevailing on the dismissal of the forfeiture proceeding and  
15 the release of the vehicle to such person. If a notice for sale of  
16 the vehicle was filed for satisfaction of impound expenses prior to  
17 the filing of a motion for forfeiture, the vehicle shall be sold as  
18 provided by law for unpaid towing, wrecker services, and storage  
19 expenses and shall not be subject to forfeiture. If the convicted  
20 person redeems his or her interest in the vehicle at a sale for  
21 impound expenses, a forfeiture proceeding may thereafter proceed as  
22 authorized by this act. Neither the notice of sale for towing,  
23 wrecker services, and storage expenses nor the sale of such vehicle  
24 for impound expenses shall serve to extend the requirement for



1 filing a motion to forfeit as provided in subsection B of this  
2 section.

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

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

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

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

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

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

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

23 7. The balance of the proceeds to be deposited in the Drug  
24 Abuse Education and Treatment Revolving Fund established pursuant to

1 Section 2-503.2 of Title 63 of the Oklahoma Statutes for the benefit  
2 of drug court treatment as provided by law.

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

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
12 February 28, 2023 - DO PASS AS AMENDED BY CS

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