

Cherokee Nation Code Annotated

Title 47: Motor Vehicles

Chapter 11: Rules of the Road

Article IX. Reckless Driving, Driving While Intoxicated and Negligent Homicide

§ 11-906.4. Operating or being in actual physical control of motor vehicle while under the influence while under age—Penalties

Cite as: 47 CNCA § 11-906.4

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

1. Has any measurable quantity of alcohol in the person's blood or breath at the time of a test administered within two (2) hours after an arrest of the person;
2. Exhibits evidence of being under the influence of any other intoxicating substance as shown by analysis of a specimen of the person's blood, breath, saliva, or urine in accordance with the provisions of Sections 752 and 759 of this title; or
3. Exhibits evidence of the combined influence of alcohol and any other intoxicating substance.

B. Any person under twenty-one (21) years of age who violates any provision of this section shall be subject to the seizure of the driver license of that person at the time of arrest or detention and the person, upon conviction, shall be guilty of operating or being in actual physical control of a motor vehicle while under the influence while under age and shall be punished:

1. For a first conviction, by:
 - a. a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00),
 - b. assignment to and completion of twenty (20) hours of community service,
 - c. requiring the person to attend and complete a treatment program, or
 - d. any combination of fine, community service, or treatment;
2. Upon a second conviction, by:
 - a. assignment to and completion of not less than two hundred forty (240) hours of community service. and

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

In addition. a second conviction may be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by requiring the person to attend and complete a treatment program, as recommended by the assessment required pursuant to subparagraph c of paragraph 2 of subsection D of this section, or by both; or

3. Upon a third or subsequent conviction, by:

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

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

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

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

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

1. Upon a first conviction

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

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

c. the continued installation of an ignition interlock device or devices, at the expense of the person, as provided in subsection D of Section 6-212.3 of this title, after the mandatory period of cancellation, denial or revocation for a period as provided

in paragraph l of subsection A of Section 6-212.3 of this title;

2. Upon a second conviction:

- a. the cancellation or denial of driving privileges, as ordered by the court pursuant to subsection B of Section 6-107.2 of this title,
- b. the mandatory revocation of driving privileges pursuant to Section 6-205.1, 753 or 754 of this title, which period may be modified as provided by law,
- c. an assessment of the person's degree of alcohol abuse, in the same manner as prescribed in subsection H of Section 11-902 of this title, which may result in treatment as deemed appropriate by the court, and
- d. the continued installation of an ignition interlock device or devices, at the expense of the person, as provided in subsection D of Section 6-212.3 of this title, after the mandatory period of cancellation, denial or revocation for a period as provided in paragraph 2 of subsection A of Section 6-212.3 of this title; and

3. Upon a third or subsequent conviction:

- a. the cancellation or denial of driving privileges as ordered by the court pursuant to subsection B of Section 6-107.2 of this title,
- b. the mandatory revocation of driving privileges pursuant to Section 6-205.1, 753 or 754 of this title, which period may be modified as provided by law,
- c. an assessment of the person's degree of alcohol abuse, in the same manner as prescribed in subsection H of Section 11-902 of this title, which may result in treatment as deemed appropriate by the court, and
- d. the continued installation of an ignition interlock device or devices, at the expense of the person, as provided in subsection D of Section 6-212.3 of this title, after the mandatory period of cancellation, denial, or revocation for a period as provided in paragraph 3 of subsection A of Section 6-212.3 of this title.

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

F. As used in this section:

- 1. The term "conviction" includes a juvenile delinquency adjudication by a court; and
- 2. The term "revocation" includes the cancellation or denial of driving privileges by the Department.

Historical Data

LA 02-21, eff. January 11, 2021.