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**TITLE 47 - MOTOR VEHICLES**  
**Code of Federal Regulations**

Indian highway safety program, see 25 C.F.R. § 181.1 et seq.

**HIGHWAY SAFETY CODE**

**CHAPTER 1**

**WORDS AND PHRASES DEFINED**

**§ 1-101. Definition of words and phrases**

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this chapter, except when the context otherwise requires or other definitions are provided. Section captions are a part of this chapter.

**History**

**Source.** LA 2-91, eff. February 9, 1991.

**§ 1-101.1. Ancient vehicle**

A motor vehicle owned by a citizen of this Nation, which is thirty (30) years of age or older, based upon the date of manufacture thereof, and which travels on highways of this state primarily incidental to historical or exhibition purposes only.

**History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-102. Arterial street**

Any U.S. or state-numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-103. Authorized emergency vehicles-Equipment**

Vehicles of fire departments, ambulances and police vehicles, including vehicles owned or operated by the Federal Bureau of Investigation, are authorized emergency vehicles; such vehicles shall be equipped with siren capable of giving an audible signal, as required by law, and a flashing red light.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **§ 1-103.1. Automobile**

Every motor vehicle of the type constructed and used for the transportation of persons for purposes other than for hire or compensation. This shall include all vehicles of the station wagon type whether the same are called station wagons, or ranch wagons, van wagons, except those used for commercial purposes, suburbans, town and country, or by any other name, except when owned and used as a school bus or motor bus by a school district or a religious corporation or society as elsewhere provided by law.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **§ 1-104. Bicycle**

Every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty (20) inches in diameter.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **§ 1-105. Bus**

Every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-106. Business district

The territory contiguous to and including a highway when within any six hundred (600) feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-107. Cancellation of driver's license

The annulment or termination by formal action of the Department of a person's driver's license because of some error or defect in the license or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation.

### History

Source. LA 2-91, eff. February 9, 1991.

##### § 1-107.1. Class A commercial motor vehicle

Any combination of vehicles, except a Class D motor vehicle, with a gross combined weight rating of twenty-six thousand one (26,001) or more pounds provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand (10,000) pounds.

### History

Source. LA 2-91, eff. February 9, 1991.

##### § 1-107.2. Class B commercial motor vehicle

Any single vehicle, except a Class D motor vehicle, with a gross vehicle weight rating of twenty-six thousand one (26,001) or more pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds gross vehicle weight rating. This class shall apply to a bus with a gross vehicle weight rating of twenty-six thousand one (26,001) or more pounds and designed to transport sixteen (16) or more persons, including the driver.

### History

Source. LA 2-91, eff. February 9, 1991.

##### § 1-107.3. Class C commercial motor vehicle

Any single vehicle, except a Class D motor vehicle, with a gross vehicle weight rating of less than twenty-six thousand one (26,001) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds gross vehicle weight rating, which is:

1. Required to be placarded for hazardous materials under 49 C.F.R., Part 172, subpart F; or
2. Designed by the manufacturer to transport sixteen (16) or more persons, including the driver.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-107.4. Class D motor vehicle

Any motor vehicle or combination of vehicles, regardless of weight, which:

1. Is marked and used as a firefighting vehicle;
2. Is designed and used solely as a recreational vehicle;
3. Is a single or combination vehicle with a gross combined weight rating of less than twenty-six thousand one (26,001) pounds; or
4. Is a single or combination farm vehicle with a gross combined weight rating of more than twenty-six thousand one (26,001) pounds if:
  - a. It is entitled to be registered with a farm tag and has a farm tag attached thereto, and
  - b. It is controlled and operated by a farmer, his family or his employees, and
  - c. It is used to transport either agricultural products, farm machinery, farm supplies or any combination of those materials to or from a farm, and
  - d. It is not used in the operations of a common or contract motor carrier, and
  - e. It is used within one hundred fifty (150) air miles of the person's farm or as otherwise provided by federal law.

Provided, however, a Class D Motor Vehicle shall not include any vehicle which is:

1. Designed to carry sixteen or more passengers, including the driver; or
2. Required to be placarded for hazardous materials under 49 C.F.R., Part 172, subpart F.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-108. Commercial chauffeur and chauffeur

A. Commercial chauffeur. Every person who operates a motor vehicle while in use as a common carrier of persons or property.

B. Chauffeur. Every person who is employed by another for the principal purpose of operating a motor vehicle and every person who operates a motor vehicle of more than two (2) tons rated capacity that is required by law to have a commercial tag attached thereto and every person who operates a school bus transporting school children to and from school.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-109. Commissioner

The Commissioner of the Department of Public Safety of the State of Oklahoma.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-110. Controlled-access highway

Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-111. Crosswalk

A. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

B. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-112. Dealer

Every person engaged in the business of buying, selling or exchanging vehicles of a type to be registered hereunder and who has an established place of business for such purpose in this Nation.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-113. Department

The Department of Public Safety of the State of Oklahoma, acting directly or through its duly-authorized officers and agents.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-114. Driver

Every person who drives or is in actual physical control of a vehicle.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-115. Essential parts

All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-116. Established place of business

The place actually occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-117. Explosives

Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i. e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the Interstate Commerce Commission. The term "explosives" shall include all material which is classified as Class A, Class B and Class C explosives by the Interstate Commerce Commission, and includes but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonant fuse,

instantaneous fuse, igniter cord, igniters, and some special fireworks. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-118. Farm tractor

Every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines and other implements of husbandry.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-119. Flammable liquid

Any liquid which has a flash point of 70° F., or less, as determined by a tagliabue or equivalent closed-cup test device and having a vapor pressure not exceeding 40 psia at 100 F.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-120. Foreign vehicle

Every vehicle of a type required to be registered hereunder brought into this Nation from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this Nation.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-120.1. Gross combination weight rating (GCWR)

The value specified by the manufacturer as the loaded weight of a combination or articulated vehicle. In the absence of a value specified by the manufacturer, the gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-121. Gross vehicle weight rating (GVWR)

The gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight

of a single vehicle.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-122. Highway**

The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-123. Manufactured home**

"Manufactured home" means and includes every vehicle defined as a manufactured home as defined in 47 O.S. § 1102.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

## **Oklahoma Statutes**

Oklahoma Vehicle License and Registration Act, definitions, see 47 O.S. § 1102.

### **§ 1-124. Identifying number**

The numbers, and letters if any, on a vehicle designated by the Oklahoma Tax Commission for the purpose of identifying the vehicle.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-125. Implement of husbandry**

Every vehicle designed and adapted exclusively for agricultural, horticultural or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways. Farm wagon type tank trailers of not over one thousand two hundred (1,200) gallons capacity, used during the liquid fertilizer season as field storage "nurse tanks" supplying the fertilizer to a field applicator and moved on highways only for bringing the fertilizer from a local source of supply to farms or field or from one farm or field to another, shall be considered implements of husbandry for purposes of this act. Trailers or semitrailers owned by a person engaged in the business of farming and used exclusively for the purpose of transporting farm products to market or for the purpose of transporting to the farm material or things to be used thereon shall also be considered implements of husbandry for purposes of this act.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-126. Intersection

A. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

B. Where a highway includes two roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty (30) feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-127. Laned roadway

A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-128. License to operate a motor vehicle

Any operator's, commercial chauffeur's or chauffeur's license or any other license or permit to operate a motor vehicle issued under the laws of Oklahoma including:

1. Any temporary license or instruction permit;
2. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license;
3. Any nonresident's operating privilege as defined herein.

### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-129. Lienholder

A person holding a security interest in a vehicle.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-130. Local authorities

Every county, municipal and other local board or body having authority to enact laws relating to traffic under the Constitution and laws of this Nation.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-131. Mail

To deposit in the United States mails properly addressed and with postage prepaid.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-132. Manufacturer

Every person engaged in the business of constructing or assembling vehicles of a type required to be registered hereunder at an established place of business in the State of Oklahoma or within Cherokee Nation.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-133. Metal tire

Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

#### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-133.1. Minibike

Any self-propelled vehicle or motor-driven cycle having less than an eight-inch (8") wheel rim, or less than a forty-inch (40") wheel base or less than a twenty-five-inch (25") seat height.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-134. Motor vehicle

Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from

overhead trolley wires, but not operated upon rails; provided, however, the definition of "motor vehicle" herein shall not include implements of husbandry as defined in 47 CNCA § 1-125.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-135. Motorcycle**

Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or a motorized bicycle.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-136. Motor-driven cycle**

Every motorcycle and motor scooter, equipped with a motor which produces not to exceed five (5) brake horsepower at full throttle without a governor as determined by a dynamometer test and designed to travel on not more than three (3) wheels in contact with the ground.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-136.1. Motorized bicycle**

Every vehicle having fully operative pedals for propulsion by human power, an automatic transmission and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters, which produces no more than two (2) brake horsepower, and is capable of propelling the vehicle at a maximum design speed of not more than thirty (30) miles per hour on level ground.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-137. Nonresident**

Every person who is not a resident of this Nation.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-138. Nonresident's operating privilege**

The privilege conferred upon a nonresident by the laws of this Nation pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this Nation.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-139. Official traffic-control devices

All signs, barricades, signals, markings and devices not inconsistent with this act placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-140. Operator

Every person, other than a commercial chauffeur or chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-141. Owner

A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with a right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Code.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-142. Park, parking, and public parking lot

A. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

B. A public parking lot is any parking lot on right-of-way dedicated to public use or owned by the state or a political subdivision thereof.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-143. Pedestrian

Any person afoot.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-144. Person

Every natural person, firm, copartnership, association or corporation.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-145. Pneumatic tire

Every tire in which compressed air is designed to support the load.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-146. Pole trailer

Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-147. Police officer

Every sheriff, constable, marshal, policeman, highway patrolman, and any other officer who is authorized to direct or regulate traffic or make arrests for violations of Cherokee Nation laws.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-148. Private road or driveway

Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-149. Railroad

A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-150. Railroad sign or signal

Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-151. Railroad train

A steam engine, diesel, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-152. Reconstructed vehicle

Every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used.

#### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-152.1. Recreational vehicle

For the sole purpose of a classified driver's license system, a recreational vehicle shall be defined as a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping or travel purposes and is used solely as a family or personal conveyance.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-153. Registration

The registration certificate or certificates and registration plates issued under the laws of Oklahoma pertaining to the registration of vehicles.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-154. Residence district

The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-155. Revocation of driver's license

The termination by formal action of the Oklahoma Department of Public Safety regarding a person's driver's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the Department after the expiration of the period of revocation as hereinafter provided.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-156. Right-of-way

The privilege of the immediate use of the roadway.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-157. Road tractor

Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-158. Roadway and shoulder

A. Roadway. That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of

the shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

B. Shoulder. The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-159. Safety zone**

The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-160. School bus**

Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school, provided, however, that this definition of school bus shall not be extended to include buses normally used in city transit which may be used part time for transportation of school children within such cities during some portion of the day.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-161. Security**

Cash, negotiable securities, or corporate security bond deposited with the Commissioner of Public Safety and placed in the custody of the National Treasurer to secure payment of a judgment or judgments arising out of a motor vehicle accident which occurred prior to the demand for posting of security.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-162. Semitrailer**

Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-163. Sidewalk**

That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-164. Solid tire**

Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-165. Special mobilized machinery**

Special purpose machines, either self-propelled or drawn as trailers or semitrailers, which derive no revenue from the transportation of persons or property, whose use of the highways is only incidental, and whose useful revenue-producing service is performed at destinations in an area away from the traveled surface of an established open highway, and which carry no load other than their own weight, which cannot be divided for all practical purposes. This definition shall include a truck or truck tractor when used while drawing special mobilized machinery but this shall not be construed as exempting from license and registration the pulling unit truck or truck tractor as required by the motor vehicle license and registration.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-166. Specially-constructed vehicle**

Every vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 1-167. Stand or standing**

Means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-168. State

A state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-169. Stop

When required means complete cessation from movement.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-170. Stop or stopping

When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-171. Street

The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-172. Streetcar

A car other than a railroad train for transporting persons or property and operating upon rails principally within a municipality.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-173. Suspension of driver's license

The temporary withdrawal by formal action of the Department of a person's driver's license or privilege to operate a motor vehicle on the public highways.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-173.1. Tank vehicle

Any commercial motor vehicle designed to transport any liquid, powdered or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include but are not limited to cargo tanks and portable tanks as defined by 49 C.F.R., Part 171. Provided however, the term "tank vehicle" shall not include a portable tank having a rated capacity of under one thousand (1,000) gallons.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-174. Taxicab

Taxicab shall mean and include any motor vehicle for hire, designed to carry seven (7) persons or less, operated upon any street or highway, or on call or demand, accepting or soliciting passengers indiscriminately for transportation for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported; but this classification shall not include motor vehicles of seven (7) passenger capacity or less operated by the owner where the cost of operation is shared by fellow workmen between their homes and the place of regular daily employment, when not operated for more than two (2) trips per day, nor shall the classification include automobiles operated by the owner where the cost of operation is shared by the passengers on a "share the expense plan," nor shall this classification include motor vehicles transporting students from the public school system when said motor vehicle is so transporting under contract with public, private, or parochial school board or governing body.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-175. Through highway

Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this act.

#### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-176. Trackless trolley coach

Every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-177. Traffic

Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together, while using any highway for purposes of travel.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-178. Traffic-control signal

Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-179. Traffic lane

The portion of the traveled way for the movement of a single line of vehicles.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-180. Trailer

Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle, provided however, the definition of trailer herein shall not include implements of husbandry as defined in 47 CNCA § 1-125.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 1-181. Transporter

Every person engaged in the business of delivering vehicles of a type required to be registered hereunder from a

manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-181.1. Travel trailer

Any vehicular portable structure built on a chassis which is not propelled by its own power but is towed by another vehicle and is used as a temporary dwelling for travel, recreational or vacation use. A travel trailer shall have a body width not exceeding eight (8) feet in travel mode and an overall length not exceeding forty (40) feet, including the hitch or coupling.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-182. Truck

Every motor vehicle designed, used or maintained primarily for the transportation of property.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-183. Truck tractor

A. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn; and

B. For the purposes of 47 O.S. § 14-103(C)(3), the term truck-tractor shall also include oil field rig-up trucks when towing a trailer or semitrailer.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 1-184. Turnpike and Turnpike Authority

A. The words "Turnpike Authority" or "Authority" shall mean the Oklahoma Turnpike Authority, created by 69 O.S.1951 § 653 as amended, or, if said Authority shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

B. A turnpike is a limited access grade separated expressway financed and operated by the Oklahoma Turnpike Authority upon which a toll is charged for the use thereof.

### History

Source. LA 2-91, eff. February 9, 1991.

### Oklahoma Statutes

Oklahoma Turnpike Authority, liabilities, see 69 O.S. § 1703.

#### § 1-185. Urban district

The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter of a mile or more.

#### History

Source. LA 2-91, eff. February 9, 1991.

#### § 1-186. Vehicle

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; provided, however, the definition of "vehicle" as used in this act shall not include implements of husbandry as defined in 47 CNCA § 1-125.

#### History

Source. LA 2-91, eff. February 9, 1991.

### Cross References

Safety belt law, see 47 CNCA § 12-417.

## CHAPTER 2

### APPLICATION

#### § 2-101. Application of code

This title shall apply to all persons subject to the jurisdiction of Cherokee Nation as determined by Cherokee Nation or federal law.

#### History

Source. LA 2-91, eff. February 9, 1991.

#### § 2-102. Cherokee Nation

"Cherokee Nation" is the government of Cherokee Nation and geographically is the territory of Cherokee Nation as of 1893.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Indians <KEY>210.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

### **§ 2-103. Indian**

Any person who is a member or who is eligible for membership in a federally-recognized tribe, nation or band of Indians.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

### **§ 2-104. Tribal citizen**

Any person who is a citizen or who is eligible for citizenship in Cherokee Nation.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

### § 2-105. Offense

An offense is a violation of any provision under this code which is punishable only by assessment of a fine and costs.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 2-106. Crime

A crime is any violation of a provision of this code which is not designated as an "offense" and if committed under the laws of the State of Oklahoma would constitute a misdemeanor or felony.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>316.

Westlaw Topic No. 48A.

## CHAPTER 4

### ANTI-THEFT LAWS

#### § 4-101. Exceptions from provisions of this chapter

This chapter does not apply to the following unless a title or registration has been issued on such vehicles under this act:

1. a vehicle moved solely by animal power;
2. an implement of husbandry, except as provided in 47 CNCA §§ 4-102 and 4-104;
3. special mobilized machinery;
4. a self-propelled invalid wheelchair or tricycle.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>339.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1715 to 1727.

#### **§ 4-102. Unauthorized use of vehicle or implement of husbandry**

A person not entitled to possession of a vehicle or implement of husbandry who, without the consent of the owner and with intent to deprive him, temporarily or otherwise, of the vehicle or implement of husbandry or its possession, takes, uses or drives the vehicle or implement of husbandry is guilty of a crime.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>339.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1715 to 1727.

#### **§ 4-103. Receiving or disposing of a vehicle**

A person not entitled to the possession of a vehicle who receives, possesses, conceals, sells or disposes of it, knowing it to be stolen or converted under circumstances constituting a crime, is guilty of a crime.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>339.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1715 to 1727.

#### **§ 4-104. Damaging or tampering with vehicle or implement of husbandry**

A. A person, who, with intent and without right to do so, injures or tampers with any vehicle or implement of husbandry or in any other manner damages any part or portion of said vehicle or implement of husbandry or any accessories, appurtenance or attachments thereto is guilty of a crime.

B. A person, who, without right to do so and with intent to commit a crime, climbs into or upon a vehicle or implement of husbandry whether it is in motion or at rest, attempts to manipulate any of the levers, starting

mechanism, brakes or other mechanism or device of a vehicle or implement of husbandry while the same is at rest and unattended, or sets in motion any vehicle or implement of husbandry while the same is at rest and unattended is guilty of a crime.

C. This section shall not apply as stated in 47 CNCA § 11-1002.

### History

Source. LA 2-91, eff. February 9, 1991.

### Cross References

Seizure and forfeiture proceedings-Vehicles, airplanes, vessels, etc., used in attempt or commission of certain crimes, see 21 CNCA § 1738.

### Library References

Automobiles <KEY>348.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1690 to 1691.

### § 4-105. Stolen, converted, recovered and unclaimed vehicles

A. It shall be the duty of every sheriff, marshal, chief of police or peace officer to make immediate report to the Department of Public Safety of all vehicles reported to their respective jurisdictions as being stolen or recovered. Such report shall be made as prescribed by the Department.

B. An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the Department, but the Department may disregard the report of a conversion unless a warrant has been issued for the arrest of a person charged with the conversion. A person who has so reported the theft or conversion of a vehicle shall, forthwith after learning of its recovery, report the recovery to the Department.

C. An operator of a place of business for garaging, repairing, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of thirty (30) days, shall, within five (5) days after the expiration of that period, report the vehicle as unclaimed to the Department. Such report shall be on a form prescribed by the Department.

A vehicle left by its owner whose name and address are known to the operator or his employee is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this subsection forfeits all claims and liens for its garaging, parking or storing and is guilty of a crime punishable by a fine of not more than Twenty-five Dollars (\$25.00) for each day his failure to report continues.

D. The Department shall maintain and appropriately index cumulative public records of stolen, converted, recovered and unclaimed vehicles reported to it pursuant to this section. The Department may make and distribute weekly lists of such vehicles so reported to it to peace officers upon request without fee and to others for the fee, if any, the Department prescribes.

E. Any peace officer who has reason to believe or upon receiving information that a motor vehicle has been stolen shall have and is hereby vested with authority to confiscate and hold such vehicle until satisfactory proof of ownership is established.

### History

Source. LA 2-91, eff. February 9, 1991.

### § 4-106. False report of theft or conversion

A person who knowingly makes a false report of the theft or conversion of a vehicle to a peace officer or to the Department is guilty of a crime.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>339.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1715 to 1727.

### § 4-107. Removed, falsified or unauthorized identification

A. Any person or persons who shall destroy, remove, cover, alter or deface, or cause to be destroyed, removed, covered, altered or defaced, the engine number or other distinguishing number of any vehicle in this Nation, without first giving notice of such act to the Cherokee Nation Tax Commission, upon such form as the Commission may prescribe, or any person who shall give a wrong description in any application for the registration of any vehicle in this Nation for the purpose of concealing or hiding the identity of such vehicle, shall be deemed guilty of a crime.

B. A person who buys, receives, possesses, sells or disposes of a vehicle or an engine for a vehicle, knowing that the identification number of the vehicle or engine has been removed or falsified, shall, upon conviction, be guilty of a crime.

C. A person who buys, receives, possesses, sells or disposes of a vehicle or an engine for a vehicle, with knowledge that the identification number of the vehicle or engine has been removed or falsified and with intent to conceal or misrepresent the identity of the vehicle or engine, shall, upon conviction, be guilty of a crime.

D. A person who removes a license plate from a vehicle or affixes to a vehicle a license plate not authorized by law for use on said vehicle with intent to conceal or misrepresent the identity of the vehicle or its owner shall, upon conviction, be guilty of a crime.

E. As used in this section:

1. "Falsify" includes alter and forge.

2. "Identification number" includes an identifying number, serial number, engine number or other distinguishing number or mark, placed on a vehicle or engine by its manufacturer or by authority of the Cherokee Nation Tax Commission or in accordance with the laws of another state, tribe, or country.

3. "Remove" includes deface, cover and destroy.

F. An identification number may be placed on a vehicle or engine by its manufacturer in the regular course of business or placed or restored on a vehicle or engine by authority of the Cherokee Nation Tax Commission without violating this section; an identification number so placed or restored is not falsified.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Cross References

Seizure and forfeiture proceedings-Vehicles, airplanes, vessels, etc., used in attempt or commission of certain crimes, see 21 CNCA § 1738.

### Library References

Automobiles <KEY>340.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1745 to 1746.

### § 4-108. False statements of material facts-Punishment

Any person who shall knowingly make any false statement of a material fact, either in his application for the certificate of title herein provided for, or in any assignment thereof, or who, with intent to procure or pass title to a motor vehicle which he knows, or has reason to believe, has been stolen, shall receive or transfer possession of the same from or to another, or who shall have in his possession any motor vehicle which he knows or has reason to believe has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as such officer, shall be deemed guilty of a crime. This provision shall not be exclusive of any other penalties prescribed by an existing or future law for the larceny or unauthorized taking of a motor vehicle.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>326.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1628 to 1638, 1730 to 1731, 1748, 1751.

#### **§ 4-109. Altering or forging certificate of title**

Any person who shall alter or forge, or cause to be altered or forged, any certificate of title issued by the Commission, pursuant to the provisions of this act, or any assignment thereof, or who shall hold or use any such certificate or assignment, knowing the same to have been altered or forged, shall be deemed guilty of a crime.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>326.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1628 to 1638, 1730 to 1731, 1748, 1751.

#### **§ 4-110. Offenses in connection with certificates of title**

A. Except as otherwise authorized by law, it shall be unlawful for any person to commit any of the following acts:

1. To lend or to sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title or number plate issued to or in the custody of the person so lending or permitting the use thereof;
2. To alter or in any manner change a certificate of title, registration certificate or number plate issued under the laws of this Nation or any state;
3. To purchase identification or number plates on an assigned certificate of title. This paragraph shall be applicable to all persons except bona fide registered dealers in used motor vehicles who are holders of current and valid used motor vehicle dealers' licenses;
4. To sell or dispose of, in any manner, a used vehicle without delivering to the purchaser an Oklahoma certificate of title in such purchaser's name or one properly and completely assigned to him at the time of sale.

Anyone violating any of the provisions of this subsection, upon conviction, shall be guilty of a crime and shall be fined not less than Ten Dollars (\$10.00) and not to exceed One Hundred Dollars (\$100.00).

B. Except as otherwise authorized by law, no person shall:

1. Lend or sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title issued for a manufactured home, manufactured home registration receipt, manufactured home registration decal or excise tax receipt;
2. Alter or in any manner change a certificate of title issued for a manufactured home under the laws of this

Nation or any state;

3. Remove or alter a manufactured home registration receipt, manufactured home registration decal or excise tax receipt attached to a certificate of title or attach such receipts to a certificate of title with the intent to misrepresent the payment of the required excise tax and registration fees;

4. Purchase identification, manufactured home registration receipt, manufactured home registration decal or excise tax receipt on an assigned certificate of title.

Anyone violating the provisions of this subsection, upon conviction, shall be guilty of a crime.

C. Any violation of any portion of this section where a specific penalty has not been imposed shall constitute a crime and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars (\$10.00) and not to exceed One Hundred Dollars (\$100.00).

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>326.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1628 to 1638, 1730 to 1731, 1748, 1751.

## **CHAPTER 10**

### **ACCIDENTS AND ACCIDENT REPORTS**

#### **§ 10-101. Provisions of chapter apply throughout Cherokee Nation**

The provisions of this chapter shall apply upon highways and elsewhere throughout Cherokee Nation.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Cross References**

Penalties for crimes which would be a misdemeanor under Oklahoma law-Plea of guilty by written statement-Acts not otherwise punishable by imprisonment, see 47 CNCA § 17-101.

#### **§ 10-102. Accidents involving death or personal injury**

A. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the

requirements of 47 CNCA § 10-104. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person willfully, maliciously, or feloniously failing to stop, or to comply with said requirements under such circumstances, shall be guilty of a crime.

C. The Commissioner of Public Safety shall revoke the license or permit to drive and any nonresident operating privilege of the person so convicted.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>336.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1692 to 1708.

### **§ 10-103. Accidents involving damage to vehicle**

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of 47 CNCA § 10-104. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a crime. In addition to the criminal penalties imposed by this section, any person violating the provisions of this section shall be subject to liability for damages in an amount equal to three (3) times the value of the damage caused by the accident. Said damages shall be recoverable in a civil action. Nothing in this section shall prevent a Judge from ordering restitution for any damage caused by a driver involved in an accident provided for in this section.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>146, 336.

Indians <KEY>535.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 586, 590 to 593, 641 to 642, 647, 650 to 651, 1692 to 1708.

### § 10-104. Duty to give information and render aid

The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his correct name, address and registration number of the vehicle he is driving, and shall upon request and if available exhibit his operator's or chauffeur's license and his security verification form, as defined in 47 O.S. § 7-600, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Oklahoma Statutes

Compulsory liability insurance, definitions, see 47 O.S. § 7-600.

#### Library References

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

### § 10-105. Duty upon striking unattended vehicle

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the correct name and address of the driver and owner of the vehicle striking the unattended vehicle, and provide said operator or owner with information from his security verification form, as defined by 47 O.S. § 7-600, or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking, and providing information from his security verification form, as defined by 47 O.S. § 7-600, and a statement of the circumstances thereof.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Oklahoma Statutes

Compulsory liability insurance, definitions, see 47 O.S. § 7-600.

#### Library References

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

### **§ 10-106. Duty upon striking fixtures upon a highway**

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license and his security verification form, as defined in 47 O.S. § 7-600, and shall make report of such accident when and as required in 47 CNCA § 10-108.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Oklahoma Statutes**

Compulsory liability insurance, definitions, see 47 O.S. § 7-600.

#### **Library References**

Automobiles <KEY>15, 146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 49 to 50, 582 to 593, 641 to 648, 650 to 651, 942 to 943.

### **§ 10-107. Immediate notice of accident**

The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately, by the quickest means of communication, give notice of such accident to the local law enforcement department, or to the office of the county sheriff or the nearest office of the State Highway Patrol after complying with the requirements of 47 CNCA § 10-104.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

## § 10-108. Written report of accident-Notice to other parties-Ancillary proceedings

A. The operator of a motor vehicle which is in any manner involved in a collision upon any road, street, highway or elsewhere within this Nation resulting in bodily injury to or death of any person or in which it is apparent that damage to one vehicle or other property is in excess of Three Hundred Dollars (\$300.00) shall forward a written report of such collision to the Department if settlement of the collision has not been made within six (6) months after the date of the accident and provided that if a settlement has been made a report of such settlement must be made by the parties.

B. Notwithstanding the provisions of 47 O.S. § 7-202, if any party involved in a collision files a report under this section, the Department shall notify all other parties involved in the collision, as specified in the report, that a report has been filed and all other parties shall then furnish the Department, within ten (10) days, such information as the Department may request to determine whether the parties were in compliance with the requirements of 47 O.S. § 7-600 et seq. at the time of the collision. Upon a finding that an owner or driver was not in compliance with 47 O.S. § 7-600 et seq., the Department shall then commence proceedings under the provisions of 47 O.S. § 7-201 et seq. and § 7-301 et seq.

### History

Source. LA 2-91, eff. February 9, 1991.

### Oklahoma Statutes

Compulsory liability insurance, definitions, see 47 O.S. § 7-600.

Department to determine amount of security required, notices, see 47 O.S. § 7-202.

Financial responsibility, security following accident, see 47 O.S. § 7-201 et seq.

Liability requirements, proof of compliance, nonresidents, see 47 O.S. § 7-601 et seq.

When courts to report nonpayment of judgments, see 47 O.S. § 7-308.

### Library References

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

## § 10-109. Form of report

A. The form of the report required by this section shall be prescribed by the Commissioner, and the Commissioner may cause to be prepared such blanks and shall make such blanks available to the motoring public by leaving a supply with marshals, sheriffs, chiefs of police, justices of the peace, judges of the district court and other officials as the Commissioner may deem advisable.

B. Such report, in addition to such other information as may be prescribed by the Commissioner, shall contain

information to enable the Commissioner to determine whether the requirements for the deposit of security under 47 O.S. § 7-202 are inapplicable by reason of the existence of insurance or other exceptions specified in this act, and shall be accompanied by a copy of an estimate made by some motor vehicle agency or established garage as to the cost of repairing the vehicle of which the person making the report was the operator or owner, which report shall be signed by an authorized representative of such agency or garage.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Oklahoma Statutes

Department to determine amount of security required, notices, see 47 O.S. § 7-202.

### Library References

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

### § 10-110. Additional information

The Department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the Department.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

### § 10-111. When driver unable to report

A. An accident report is not required under this chapter from any person who is physically incapable of making report during the period of such incapacity.

B. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in 47 CNCA § 10-107 and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

### § 10-112. False reports

Any person who gives information in reports as required in 47 CNCA § 10-108, 10-110 or 10-111 knowing or having reason to believe that such information is false shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than one (1) year, or both.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Indians <KEY>623, 624.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### § 10-113. Accident report forms

A. The Department may prepare and upon request supply to marshals, police departments, coroners, sheriffs, garages and other suitable agencies or individuals forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing and the persons and vehicles involved.

B. Every accident report required to be made in writing shall be made on the appropriate form approved by the Department and shall contain all of the information required therein unless not available.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>146, 147.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 22, 46, 582 to 593, 641 to 648, 650 to 651.

### **§ 10-114. Penalty for failure to report**

The Commissioner of Public Safety may suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as herein provided until such report has been filed, and the Commissioner may extend such suspension not to exceed thirty (30) days. Any person convicted of failing to make a report as required herein shall be punished as provided in 47 CNCA § 17-101.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>144.1.

Indians <KEY>226.

Westlaw Topic Nos. 48A, 209.

C.J.S. Constitutional Law §§ 2093 to 2094.

C.J.S. Indians §§ 140 to 149.

C.J.S. Motor Vehicles §§ 353 to 356, 358 to 369, 371 to 398, 467.

### **§ 10-115. Public inspection of reports relating to accidents**

A. All accident reports made by persons involved in accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department or other state or tribal agencies having use for the records for accident prevention purposes, or for the administration of the laws of this Nation relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the Department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

B. All accident reports and supplemental information filed in connection with the administration of the laws of this Nation relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted, except, however, that such reports and supplemental information may be examined by any person named therein or by his representative designated in writing.

C. No reports or information mentioned in this section shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the Department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Department in compliance with law.

## History

Source. LA 2-91, eff. February 9, 1991.

## CHAPTER 11

### RULES OF THE ROAD

#### Cross References

Maximum speed limits-Suspension of existing conflicting law, see 47 CNCA § 11-801A.

#### ARTICLE I. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

##### § 11-101. Provisions of chapter refer to vehicles upon the highways-Exceptions

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon the highways except:

1. Where a different place is specifically referred to in a given section.
2. The provisions of Chapter 10 and Article IX of this chapter shall apply upon highways, turnpikes and public parking lots throughout the Nation.

## History

Source. LA 2-91, eff. February 9, 1991.

#### Cross References

Penalties for crimes which would be a misdemeanor under Oklahoma law-Plea of guilty by written statement-Acts not otherwise punishable by imprisonment, see 47 CNCA § 17-101.

#### Library References

Automobiles <KEY>324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

##### § 11-102. Required obedience to traffic laws

It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a crime for any person to do any act forbidden or fail to perform any act required in this chapter.

## History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

### § 11-103. Obedience to police officers

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

### § 11-104. Persons riding animals or driving animal-drawn vehicles

Every person riding an animal or driving any animal-driven vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

### § 11-105. Persons working on highways-Exceptions

Unless specifically made applicable, the provisions of this chapter except those contained in Article IX hereof shall not apply to persons, teams, motor vehicles and other equipment, while actually engaged in work upon the

surface of a highway, or to persons, motor vehicles and other equipment while actually engaged in construction, maintenance or repair of public utilities provided that all highway and public utility operations shall be protected by adequate warning signs, signals, devices or flagmen, but the provisions of this chapter shall apply to such persons and vehicles when traveling to or from such work.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

### § 11-106. Authorized emergency vehicles

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privilege set forth in this section, but subject to the conditions herein stated.

B. The driver of an authorized emergency vehicle may:

1. Park, or stand, irrespective of the provisions of this chapter;
2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
3. Exceed the maximum speed limits so long as he does not endanger life or property;
4. Disregard regulations governing direction of movement or turning in specified directions.

C. The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of 47 CNCA § 12-218, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Oklahoma Statutes

Emergency vehicles, flashing lights, see 47 O.S. § 12-218.

### Library References

Automobiles <KEY>324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

### § 11-107. Military convoys exempt from municipal traffic regulation-Right-of-way-Exceptions

The military forces of the United States and organizations of the National Guard, performing any military duty, shall not be restricted by municipal traffic regulations, and shall have the right-of-way on any street or highway through which they may pass against all, except carriers of the United States mail, fire engines, ambulances and police vehicles in the necessary discharge of their respective duties. Said mounted military moving in convoy shall have lights burning, with lead and trail vehicles prominently marked, and shall travel, while inside the corporate limits of a city or town, in compliance with such speeds as are legally posted within the corporate limits of the city or town and shall maintain a closed interval of not more than seventy-five (75) feet.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

## ARTICLE II. TRAFFIC SIGNS, SIGNALS AND MARKINGS

### § 11-201. Obedience to and required traffic-control devices

A. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this act, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this act.

B. No provision of this act for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

### History

**Source.** LA 2-91, eff. February 9, 1991.

## Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-202. Traffic-control signal legend

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights or colored lighted arrows successively one at a time, or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

#### 1. Green indication:

a. Vehicular traffic facing a circular green signal, except when prohibited under 47 CNCA § 11-1302, may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian-control signal, as provided in 47 CNCA § 11-203, pedestrians facing any green signal except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

#### 2. Steady yellow indication:

a. Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

b. Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in 47 CNCA § 11-203, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

#### 3. Steady red indication:

a. Vehicular traffic facing a steady circular red signal alone shall stop at a clearly-marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in subparagraph b of this paragraph.

b. Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right or to turn left from a one-way street into a one-way street after

stopping as required by subparagraph a of this paragraph. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. In order to prohibit right turns or left turns as prescribed in subparagraph b of this paragraph on the red signal after the required stop, a municipality must erect clear, concise signs informing drivers that such turns are prohibited. The Highway Department shall specify the design of the sign to be used for this purpose, and it shall be used uniformly throughout the state.

d. Unless otherwise directed by a pedestrian-control signal as provided in 47 CNCA § 11-203, pedestrians facing a steady circular red signal alone shall not enter the roadway.

In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-203. Pedestrian-control signals

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

1. Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way in the direction of the signal by the drivers of all vehicles.
2. Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-204. Flashing signals**

A. Whenever an illuminated red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

1. Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

B. This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in 47 CNCA § 11-701.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-204.1. Lane use control signals**

When lane use control signals are placed over individual lanes, said signals shall indicate and apply to drivers of vehicles as follows:

1. Green indication-Vehicular traffic may travel in any lane over which a green signal is shown;
2. Steady yellow indication-Vehicular traffic is thereby warned that a lane control change is being made;
3. Steady red indication-Vehicular traffic shall not enter or travel in any lane over which a red signal is shown; and
4. Flashing yellow indication-Vehicular traffic may use the lane only for the purpose of approaching and making a left turn.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-205. Pedestrian-actuated school crossing signals

Whenever a pedestrian-actuated school crossing signal is provided, it shall require obedience by vehicular traffic and pedestrians in accordance with 47 CNCA §§ 11-202 and 11-203.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-206. Display of unauthorized signs, signals or markings

A. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which projects any flashing or revolving beams of light, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any street or highway any traffic sign or signal bearing thereon any commercial advertising; provided, however, that the governing board of any city or town may permit, under such conditions as the said board may deem proper, commercial or other advertising upon any traffic sign located on streets or highways within said city or town and not designated as either state or federal highways or extensions thereof.

B. This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

C. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-207. Interference with official traffic-control devices or railroad signs or signals

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

## ARTICLE III. DRIVING ON RIGHT SIDE OF ROADWAY-OVERTAKING AND PASSING, ETC.

### § 11-301. Driving on right side of roadway-Exceptions

A. Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
2. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
3. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon;
4. Upon a roadway restricted to one-way traffic; or
5. Upon a roadway having four or more lanes for moving traffic and providing for two-way movement of traffic.

B. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane when available for traffic, or as close as

practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

C. Upon any roadway having four (4) or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under paragraph 2 of subsection (A) of this section. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-302. Passing vehicles proceeding in opposite directions

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one (1) line of traffic in each direction each driver shall give to the other at least one-half (1/2) of the main-traveled portion of the roadway as nearly as possible.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-303. Overtaking a vehicle on the left-Signal

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

3. Every driver who intends to pass another vehicle proceeding in the same direction, which requires moving his vehicle from one lane of traffic to another, shall first see that such movement can be made with safety and shall proceed to pass only after giving a proper signal by hand or mechanical device.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>329, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1658, 1748, 1750, 1752, 1755 to 1756.

### § 11-304. When overtaking on the right is permitted

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;
2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;
3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-305. Limitations on overtaking on the left

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-306. Further limitations on driving to left of center of roadway

A. No vehicle shall be driven on the left side of the roadway under the following conditions:

1. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
2. When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing unless otherwise indicated by official traffic-control devices;
3. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

B. The foregoing limitations shall not apply upon a one-way roadway; nor under the conditions described in 47 CNCA § 11-301(A)(2), nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-307. No-passing zones**

A. Cherokee Nation by designated authority is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

B. Where signs or markings are in place to define a no-passing zone as set forth in subsection (A) of this section no driver shall at any time drive to the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-308. One-way roadways and rotary traffic island**

A. Cherokee Nation may designate any street or highway or any separate roadway under their respective jurisdictions for one-way traffic and shall erect appropriate signs giving notice thereof.

B. Upon a roadway designated and sign posted for one-way traffic a vehicle shall be driven only in the direction designated.

C. A vehicle passing around a rotary traffic island shall be driven only to the right of such islands.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-308A. Speed limits-Traffic control regulations-Violations**

Cherokee Nation may set speed limits and promulgate regulations governing uniform traffic control to comply with the provisions of this title for the reasonable and safe operation of motor vehicles on property situated within the Nation and owned by or under the control of the public trust.

Speed limits and regulations so established shall be enforceable when appropriate signs giving notice thereof are erected. Any person driving on such property in violation of the speed limit or regulation so established shall, upon conviction, be punished in the same manner as provided for persons convicted of violating other provisions of this chapter.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### § 11-309. Driving on roadways laned for traffic

Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

1. A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and then given a signal, not less than the last one hundred (100) feet traveled by the vehicle, of his intention to change lanes.
2. Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign posted to give notice of such allocation.
3. Upon a roadway which is divided into four (4) or more lanes, a vehicle proceeding at less than the maximum posted speed, except when reduced speed is necessary for safe operation, shall not impede the normal flow of traffic by driving in the left lane. Such vehicle shall be driven in the right-hand lane except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.
4. Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

#### § 11-310. Following too closely

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

B. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residential district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or another vehicle.

C. No vehicle which has more than six (6) tires in contact with the road shall approach from the rear of another vehicle which has more than six (6) tires in contact with the road closer than three hundred (300) feet except when passing such said vehicle.

D. Motor vehicles being driven upon any roadway outside of a business or residential district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. The distance between such vehicles shall be a minimum of two hundred (200) feet under all conditions. This provision shall not apply to funeral processions.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

#### § 11-311. Driving on divided highways

Whenever any highway has been divided into two (2) or more roadways by leaving an intervening space or by a physical barrier or clearly-indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic control devices or police officers. No vehicle shall be driven over, across or within any such

dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection as established unless specifically prohibited by public authority.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-312. Restricted access

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-313. Restrictions on use of controlled-access roadway

Cherokee Nation may prohibit the use of any such roadway by pedestrians, bicycles or other nonmotorized traffic or by any person operating a motor-driven cycle. Cherokee Nation adopting any such prohibitory regulations shall erect and maintain official signs on the controlled-access roadway on which such regulations are applicable and when so erected no person shall disobey the restrictions stated on such signs.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

## ARTICLE IV. RIGHT-OF-WAY

### § 11-401. Vehicle approaching or entering intersection

A. The driver of a vehicle on a county road approaching an intersection with a tribal or federal highway shall stop and yield the right-of-way to a vehicle which has entered the intersection or which is so close thereto as to constitute an immediate hazard.

B. When two (2) vehicles enter or approach an intersection from different highways at approximately the same time, except in subsection (A) of this section, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

C. The right-of-way rules declared in subsections (A) and (B) of this section are modified at through highways and otherwise as hereinafter stated in this chapter.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-402. Vehicle turning left at intersection

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this chapter, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-403. Vehicle entering stop or yield intersection

A. Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in 47 O.S. § 15-108.

B. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by 47 CNCA § 11-703(D) and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding.

C. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary as provided in 47 CNCA § 11-703(E), and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding, provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right-of-way.

D. Where two or more vehicles face stop, slow, warning or caution signs or signals on two or more intersecting cross streets, and are approaching so as to enter the intersection at the same time, where each vehicle is required to stop, the vehicle coming from the right shall have the right-of-way. Where each vehicle is required to slow the vehicle coming from the right shall have the right-of-way. Where each vehicle is required to take caution, the vehicle coming from the right shall have the right-of-way. Where one vehicle is required to stop and the other to slow or take caution, the one slowing or taking caution shall have the right-of-way. Where one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right-of-way. In any event, a vehicle which has already entered the intersection shall have the right-of-way over one which has not so entered the intersection.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Oklahoma Statutes

Authority to designate through highways and "stop" and "yield" intersections, see 47 O.S. § 15-108.

#### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-404. Vehicle entering highway from private road or driveway

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles approaching on said highway.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-405. Operation of vehicles on approach of authorized emergency vehicles

A. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of 47 O.S. § 12-218, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

B. This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

### History

Source. LA 2-91, eff. February 9, 1991.

### Oklahoma Statutes

Emergency vehicles, flashing lights, see 47 O.S. § 12-218.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

## ARTICLE V. PEDESTRIANS' RIGHTS AND DUTIES

### § 11-501. Pedestrians subject to traffic regulations

A. A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to him, unless otherwise directed by a police officer.

B. Pedestrians shall be subject to traffic and pedestrian-control signals as provided in 47 CNCA §§ 11-202 and 11-203.

C. At all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Cross References**

Pedestrian-control signals, see 47 CNCA § 11-203.

Traffic-control signal legend, see 47 CNCA § 11-202.

### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-502. Pedestrians' right-of-way in crosswalks**

A. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

C. Subsection (A) shall not apply under the conditions stated in 47 CNCA § 11-503(B).

D. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-503. Crossing at other than crosswalks**

A. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

C. Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-504. Drivers to exercise due care**

Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-505. Pedestrians to use right half of crosswalks**

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-506. Pedestrians on roadways or bridges

A. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction and shall yield to approaching vehicles.

C. It shall be unlawful for any person to enter upon any portion of a bridge for the purpose of diving or jumping therefrom into a lake, river or stream for recreation, and it shall be unlawful for a pedestrian to use a bridge where sidewalks are not provided for the purpose of standing or sightseeing.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-507. Pedestrians soliciting rides or business

No person shall stand in a roadway for the purpose of soliciting a ride, donation, employment or business from the occupant of any vehicle.

### History

Source. LA 2-91, eff. February 9, 1991.

## ARTICLE VI. TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

### § 11-601. Required position and method of turning at intersections

The driver of a vehicle intending to turn at an intersection shall do so as follows:

1. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
2. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
3. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.
4. Local authorities in their respective jurisdictions may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>329, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1658, 1748, 1750, 1752, 1755 to 1756.

### § 11-602. Turning on curve or crest of grade prohibited

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

#### § 11-603. Starting parked vehicle

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748 to 1750, 1752 to 1756.

#### § 11-604. Turning movements and required signals

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in 47 CNCA § 11-601, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

B. A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-605. Signals by hand and arm or signal lamps**

A. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection (B) of this section.

B. Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>329, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1658, 1748, 1750, 1752, 1755 to 1756.

### **§ 11-606. Method of giving hand-and-arm signals**

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn. Hand and arm extended horizontally.
2. Right turn. Hand and arm extended upward.
3. Stop or decrease speed. Hand and arm extended downward.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>329, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1658, 1748, 1750, 1752, 1755 to 1756.

## ARTICLE VII. SPECIAL STOPS REQUIRED

### § 11-701. Obedience to signal indicating approach of train

A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly-visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
3. A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

### History

Source. LA 2-91, eff. February 9, 1991.

### Cross References

Flashing signals, see 47 CNCA § 11-204.

### Library References

Automobiles <KEY>329, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1658, 1748, 1750, 1752, 1755 to 1756.

### § 11-702. Certain vehicles must stop at all railroad grade crossings

A. The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the

vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

B. No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748 to 1750, 1752 to 1756.

### § 11-703. Stop signs and yield signs

A. Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in 47 O.S. § 15-108.

B. Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway, however such yield signs shall not be erected upon the approaches of but one of the intersecting streets.

C. Every stop sign shall bear the word "Stop". Every yield sign hereafter erected or replaced shall bear the word "Yield". Every stop sign and every yield sign shall at nighttime be rendered luminous by internal illumination, or by a floodlight projected on the face of the sign, or by efficient reflecting elements in or on the face of the sign.

D. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly-marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

E. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly-marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

### History

Source. LA 2-91, eff. February 9, 1991.

### Cross References

Vehicle entering stop or yield intersection, see 47 CNCA § 11-403.

### Oklahoma Statutes

Authority to designate through highways and "stop" and "yield" intersections, see 47 O.S. § 15-108.

Emergency vehicles, flashing lights, see 47 O.S. § 12-218.

### Library References

Automobiles <KEY>333, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748 to 1750, 1752 to 1756.

### § 11-704. Emerging from alley, driveway or building

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-705. Meeting or overtaking stopped school bus-Reporting violations

A. The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children, and on which the red loading signals are in operation, is to stop his vehicle before it reaches the school bus and not proceed until the loading signals are deactivated and then proceed past such school bus at a speed which is reasonable and with due caution for the safety of such school children and other occupants.

B. Every school bus used for the transportation of schoolchildren shall bear upon the front and rear thereof plainly visible signs containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height and in addition shall be equipped with visual signals meeting the requirements of 47 O.S. § 12-218, which shall be actuated by the driver of said school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

C. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

D. If the driver of a school bus witnesses a violation of the provisions of subsection (A) of this section, within twenty-four (24) hours of the alleged offense, he shall report the violation, the vehicle color, license tag number, and the time and place such violation occurred to the law enforcement authority of the municipality where the violation occurred. The law enforcement authority of Cherokee Nation shall issue a letter of warning on the alleged violation to the person in whose name the vehicle is registered. A warning letter issued pursuant to this subsection shall not be recorded on the driving record of the person to whom such letter was issued. Issuance of a warning letter pursuant to this section shall not preclude the imposition of other penalties as provided by law.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748 to 1750, 1752 to 1756.

### § 11-705.1. Church buses-Definition-Meeting and overtaking stopped bus-Signs and signals

A. A church bus is a vehicle operated by a nonprofit religious organization which transports persons including school-age children to and from religious services.

B. The driver of a vehicle meeting or overtaking a church bus that is stopped to take on or discharge passengers, and on which the red loading signals are in operation, is to stop his vehicle before it reaches the church bus and not proceed until the loading signals are deactivated and then proceed past such bus at a speed which is reasonable and with due caution for the safety of such occupants.

C. Every church bus used for the transportation of persons to and from religious services shall bear upon the front and rear thereof plainly visible signs containing the words "CHURCH BUS" in letters not less than eight (8) inches in height and in addition may be equipped with visual signals meeting the requirements of 47 O.S. § 12-218, which shall be actuated by the driver of said church bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging passengers.

D. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a church bus which is on a different roadway or when upon a controlled-access highway and the church bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

### History

Source. LA 2-91, eff. February 9, 1991.

### Oklahoma Statutes

Emergency vehicles, flashing lights, see 47 O.S. § 12-218.

### Library References

Automobiles <KEY>329, 333, 335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1658, 1748 to 1750, 1752 to 1756.

## ARTICLE VIII. SPEED RESTRICTIONS

### § 11-801. Basic rule and maximum limits

A. Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and any other conditions then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

B. Except when a special hazard exists that requires lower speed for compliance with subsection (A) of this section, the limits specified in this act or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

1. Sixty-five (65) miles per hour in other locations during daytime.
2. Fifty-five (55) miles per hour in such other locations during nighttime. Daytime means from a half hour before sunrise to a half hour after sunset. Nighttime means at any other hour.
3. Seventy (70) miles per hour in such other locations which are four-lane divided highways.
4. No person shall drive a truck, truck tractor with semitrailer or pole-trailer attached or any other combination of vehicles at a speed greater than a maximum of sixty (60) miles per hour in the day and fifty-five (55) miles per hour during the nighttime.
5. No person shall drive a pickup truck at a greater speed than is prescribed in subsection (B) of this section; except when such pickup truck is hauling livestock, then and in that event the maximum speed of such pickup truck shall not exceed sixty (60) miles per hour day or fifty-five (55) miles per hour at night. A pickup truck, as used in this act, shall apply to all vehicles having a rated load capacity of three-quarter (3/4) ton or less.
6. No person shall drive a school bus at a speed greater than a maximum of fifty (50) miles per hour except on turnpikes and interstate highways where the maximum shall be sixty-five (65) miles per hour.

7. On any highway outside of a municipality, the speed limit in a properly marked school zone shall be a maximum of twenty-five (25) miles per hour, provided the zone is marked with movable school zone signs, the

signs placed at least one hundred (100) yards on each side of the area of the school proper. These signs shall not be placed upon or left standing on any part of the roadway except during the school day and the period immediately after the closing of school when children are, or are expected to be, crossing the highway in said school area; provided that such signs shall be removed from the roadway at all times when school is actually assembled and in no event shall such signs be placed upon the roadway more than one (1) hour prior to the assembly of school in the morning nor left standing on the roadway for more than one (1) hour after the dismissal of school in the evening. The Cherokee Nation shall mark such school zones, or entrances and exits onto highways by buses or students, so that the maximum speed provided by this section shall be established therein. Exits and entrances to controlled-access highways which are within such school zones shall be marked in the same manner as other highways. The county commissioners shall mark such school zones along the county roads so that the maximum speed provided by this section shall be established therein. Said signs may be either permanent or temporary. The Cherokee Nation shall give priority over all other signing projects to the foregoing duty to mark school zones. The Department shall also provide other safety devices for school zones which are needed in the opinion of the Department. The Cherokee Nation shall mark such school zones located within Indian country.

8. No person shall drive any vehicle at a greater maximum speed than twenty-five (25) miles per hour through school zones unless otherwise marked.

9. No person shall drive any vehicle on a highway in any park or wildlife refuge at a rate of speed in excess of thirty-five (35) miles per hour. Provided, however, that the provisions of this paragraph shall not apply to any state or federal designated highway within such areas.

10. No person shall drive any vehicle or combination of vehicles with solid rubber or metal tires at a speed greater than the maximum of ten (10) miles per hour.

The maximum speed limits set forth in this act may be altered as authorized in 47 CNCA §§ 11-802 and 11-803.

C. The driver of every vehicle shall, consistent with the requirements of subsection (A), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when driving upon any narrow or winding roadway, and when special hazard exists with respects to pedestrians or other traffic, or by reason of weather or highway conditions.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Cross References**

Reckless driving, see 47 CNCA § 11-901.

### **Library References**

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### **§ 11-801A. Maximum speed limits-Suspension of existing conflicting law**

No person shall drive a vehicle on a road or highway at a speed in excess of fifty-five (55) miles per hour unless, pursuant to federal law, a greater speed limit is authorized or established; provided, however, that the speed limit on rural interstate highways, as defined by federal law, shall be a maximum of sixty-five (65) miles per hour. This act, Section 11-1101 et seq. of this title, shall cease to be effective when the "Federal-Aid Highway Amendments of 1974." (Public Law 93-643), 23 U.S.C. § 101, or a substantially similar successor law with sanctions, ceases to be in effect; or by proclamation of the Principal Chief that an emergency no longer exists and this maximum speed is no longer warranted; or by resolution of the Council of the Cherokee Nation that an emergency no longer exists and this maximum speed is no longer warranted. This act shall suspend but not repeal all other laws in conflict and such laws shall resume their effectiveness when this act ceases to be in effect.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **United States Code**

Definitions and declaration of policy, see 23 U.S.C. § 101.

#### **Library References**

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### **§ 11-801B. Restriction on cancellation of automobile insurance policies**

No insurer shall, directly or indirectly, use traffic tickets or convictions for traffic offenses as a basis for cancellation of automobile insurance policies or increasing insurance premium rates for automobile insurance policies where such ticket or conviction is for exceeding the speed limit specified in this act, but not exceeding the speed limit previously in force where the violation occurred; nor shall any insurer in any way penalize or adversely affect any insured for any such violation or conviction.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Insurance <KEY>1899.

Westlaw Topic No. 217.

C.J.S. Insurance §§ 553 to 554.

### **§ 11-801C. Restrictions on recording or assessing points for speed violations**

The Oklahoma Department of Public Safety shall not record or assess points for traffic violations or convictions for traffic offenses on any licensee's traffic record as maintained by said Department, where such violation or conviction is for exceeding the speed limit specified in this act, but not exceeding the speed limit previously in force where the violation occurred.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>144.1(3).

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 363, 374 to 378.

### **§ 11-801D. Restriction on recording or assessing points for out-of-state speed violations**

The Department of Public Safety shall not record or assess points against a licensee for out-of-state violations or convictions of exceeding such state's speed limits, provided such licensee did not exceed the speed limit previously in force as of January 1, 1974, in the state where the violation or conviction occurred.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>144.1(3).

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 363, 374 to 378.

### **§ 11-802. Establishment of tribal speed zones**

Whenever Cherokee Nation shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the highway system, said Cherokee Nation may determine and declare a reasonable and safe maximum limit thereat which, when appropriate signs giving notice thereof are erected, shall be effective at all times, or during hours of daylight or darkness or at such other times as may be determined at such intersection or other place or part of the highway.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### § 11-803. When local authorities may and shall alter maximum limits

A. Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this article is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

1. Decreases the limit at intersections; or
2. Increases the limit within an urban district, but not to more than sixty-five (65) miles per hour during daytime or fifty-five (55) miles per hour during nighttime; or
3. Decreases the limit outside an urban district, but not to less than thirty-five (35) miles per hour.

B. Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this act for an urban district.

C. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

D. As to streets and highways within the corporate limits which have been constructed or reconstructed with state or federal funds, local authorities shall have joint authority with Cherokee Nation to establish or alter speed limits; and provided further, that no local authority shall impose speed limits on any such street or highway substantially lower than those justified by the highway design, capacity, and traffic volume as determined by engineering studies, of less than thirty-five (35) miles per hour.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>5(4), 331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 53 to 54, 56, 69 to 74, 1551, 1641 to 1657.

### § 11-804. Minimum speed regulation

A. No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

B. Whenever Cherokee Nation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, Cherokee Nation or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### § 11-805. Special speed limitation on motor-driven cycles

No person shall operate any motor-driven cycle or any motor scooter, at any time, at a speed greater than thirty-five (35) miles per hour. However, all motor-driven cycles and motor scooters shall at all times conform to 47 CNCA § 11-801(A).

As used in this article, "motor-driven cycle" shall mean every bicycle with motor attached, and every motor scooter with wheel diameters twelve (12) inches or less, measured from one side of the rim to the other.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### § 11-806. Special speed limitations

A. No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is sign posted as provided in this section.

B. Cherokee Nation and local authorities may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if they shall thereupon find that such structure cannot, with safety to itself, withstand vehicles driving at speeds otherwise permissible under this act, they shall determine and declare the maximum speed of vehicles which such structure can safely withstand, and may cause and permit suitable signs stating such maximum speed to be erected and maintained at a distance of one hundred (100) feet before each end of such structure.

C. Where any tribal or federal highway shall be under construction or repair or a detour shall have been designated by reason of construction or repairs in progress and Cherokee Nation shall have determined a maximum safe, careful and prudent speed on such highway or detour during the period of such construction or repairs and shall have plainly posted at each terminus thereof and at not less than each half mile along the route thereof such determined maximum speed, no person shall drive any vehicle upon such portion of such highway or upon such detour at a speed in excess of the speed so determined and posted.

D. Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said Cherokee Nation and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety as provided in subsections (B) and (C) of this section.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### § 11-807. Charging violations and rule in civil actions

A. In every charge of violation of any speed regulation in this article, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location.

B. The provision of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

C. Every person convicted of violating any provision of this article shall be guilty of a crime and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10.00) and not more than Two Hundred Dollars (\$200.00), or shall be sentenced to serve a term of not less than five (5) days nor more than thirty (30) days in jail, or by both such fine and imprisonment.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>168(2), 331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 671 to 672, 680, 683 to 687, 1551, 1641 to 1657.

### **§ 11-808. Radar interference devices-Advertising, sale, manufacture or distribution prohibited-Exemption-Penalties**

A. It shall be unlawful for any person to operate a motor vehicle upon any public road, street, highway or turnpike of this state when such vehicle is equipped with any device designed for the purpose of, or capable of:

1. Jamming or distorting signals emitted by radar; or
2. Transmitting a signal capable of being received by radar.

B. It shall be unlawful to manufacture, advertise for sale, sell or otherwise distribute any such device in this Nation.

C. A license issued by the Federal Communications Commission for the use of such device shall exempt operation of such device from the provisions of this act.

D. Any person convicted of violating subsection (A) or (B) of this section shall be punished by a fine of not more than Two Hundred Dollars (\$200.00).

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>324, 327, 331.

Indians <KEY>623.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1504 to 1505, 1508 to 1510, 1551, 1639, 1641 to 1657, 1659, 1728 to 1731, 1750 to 1751.

### **§ 11-809. Exemptions**

The provisions of this act shall not apply to:

1. Any receiver of radio waves of any frequency lawfully licensed by any state or federal agency;
2. Any such device owned or operated by the federal or state or Nation government or any political subdivision used by employees thereof in their official duties, or the sale of any such device to law enforcement agencies for use in their official duties; or
3. Any citizens band radio.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

## **ARTICLE IX. RECKLESS DRIVING, DRIVING WHILE INTOXICATED AND NEGLIGENT HOMICIDE**

### **§ 11-901. Reckless driving**

A. It shall be deemed reckless driving for any person to drive a motor vehicle in a careless or wanton manner without regard for the safety of persons or property or in violation of the conditions outlined in 47 CNCA § 11-801.

B. Every person convicted of reckless driving shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment; on a second or subsequent conviction punishment shall be imprisonment for not less than ten (10) days nor more than six (6) months, or by fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

### **History**

**Source.** LA 02-91, eff. February 9, 1991.

**Amended.** LA 10-13, eff. April 13, 2013.

### **Library References**

Automobiles <KEY>330.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1547 to 1555.

### **§ 11-902. Persons under the influence of alcohol or other intoxicating substance or combination thereof**

A. It is unlawful and punishable as provided in subsection (C) of this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this nation who:

1. Has a blood or breath alcohol concentration, as defined in 47 CNCA § 756, of eight-hundredths (0.08) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of

such person;

2. Is under the influence of alcohol;

3. Is under the influence of any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle; or

4. Is under the combined influence of alcohol and any other intoxicating substance to a degree which renders such person incapable of safely driving or operating a motor vehicle.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.

As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, 21 CNCA § 2101 et seq., and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

C. 1. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a crime for the first offense and shall: a) participate in a substance abuse assessment and evaluation approved by the District Court and shall follow all recommendations made in the assessment and evaluation, b) be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and c) be fined not more than One Thousand Dollars (\$1,000.00).

2. Any person who within ten (10) years following the completion of the execution of any sentence or deferred judgment for a violation of this section or a violation pursuant to the provisions of any law of any state prohibiting the offenses provided in subsection (A) of this section and is convicted of a second or subsequent offense pursuant to the provisions of this section or has a prior conviction in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection (A) of this section shall be deemed guilty of a crime and shall be sentenced to: a) participate in a substance abuse assessment and evaluation approved by the District Court and shall follow all recommendations made in the assessment and evaluation at the defendant's expense, or b) incarceration for not less than one (1) year and not to exceed three (3) years and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00), or c) treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph. However, if the treatment recommended for the defendant does not include residential or inpatient treatment for a period of not less than ten (10) days, the person shall serve a term of imprisonment of at least ten (10) days.

3. Any person who is convicted of a third or subsequent offense pursuant to the provisions of this section or a violation pursuant to the provisions of any law of any state or a violation pursuant to the provisions of any law of any federally-recognized Indian tribe shall participate in a substance abuse assessment and evaluation as approved by the District Court and shall be sentenced to: a) follow all recommendations made in the substance abuse assessment and evaluation at the defendant's expense, followed by not less than one (1) year of supervision and periodic testing at the defendant's expense, four hundred eighty (480) hours of community service, and use of an ignition interlock device, or b) incarceration for not less than one (1) year and not more than three (3) years and a fine of not more than Five Thousand Dollars (\$5,000.00), or c) treatment, imprisonment and a fine within the limitations prescribed in subparagraphs a and b of this paragraph. However, if the person does not undergo residential or inpatient treatment the person shall serve a term of imprisonment

of at least ten (10) days.

D. Any person who is found guilty of a violation of the provisions of this section may be referred, prior to sentencing, to an alcoholism evaluation facility designated by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The Court shall order the person to reimburse the facility for the evaluation in an amount not to exceed Seventy-five Dollars (\$75.00). The facility shall, within seventy-two (72) hours, submit a written report to the Court for the purpose of assisting the Court in its final sentencing determination.

### History

**Source.** LA 2-91, eff. February 9, 1991.

**Amended.** LA 10-13, eff. April 13, 2013.

### Cross References

Appearance before Magistrate before bail set in certain cases, see 22 CNCA § 1115.5.

### Library References

Automobiles <KEY>332.

Indians <KEY>623, 624, 627.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1574 to 1598.

### § 11-902.1. Course for drinking drivers

As used in this act:

1. Course for drinking drivers means a course designed to inform the offender about alcohol or drugs and driving, and encourages the participants to reassess their use of alcohol or other drugs, and driving behavior, in order to select practical alternatives.

2. Satisfactory completion of a course means that the institution or agency conducting the course verifies that the participant has satisfactorily met the requirements of the course.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Indians <KEY>627.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### **§ 11-902.2. Courts-Conditional participation in drinking drivers course**

In any case in a municipal or District Court of proper jurisdiction wherein the defendant is charged with actual physical control of or operation of a motor vehicle while under the influence of or impaired by alcohol or a drug, the Court may:

- A. Upon a plea of guilty or nolo contendere, or stipulation by the defendant, or a verdict, but before a judgment of guilt is entered, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the condition that the defendant enroll in, attend and successfully complete, at his own expense, a course for drinking drivers as provided by this act; or
- B. Upon a conviction, suspend the execution of sentence, with or without probation, upon the condition that the defendant enroll in, attend and successfully complete, at his own expense, a course for drinking drivers as provided by this act.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Indians <KEY>627.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### **§ 11-902.3. Institutions and organizations that may offer courses-Fees-Limitations on enrollment**

- A. Courses for drinking drivers shall be offered only by nonprofit educational institutions of higher learning, governmental or nonprofit organizations.
- B. Enrollment fees for those attending the courses shall not exceed Fifty Dollars (\$50.00).
- C. Enrollment in the course shall not be limited to persons ordered to enroll, attend and successfully complete the course under the provisions of 47 CNCA § 11-902.2.
- D. All courses for drinking drivers shall be approved by the Department of Public Safety.
- E. Any institution conducting a course for drinking drivers shall notify the prosecutor and the court of all persons who successfully complete such course as a condition to a deferred or suspended sentence pursuant to 47 CNCA § 11-902.2.

#### **History**

Source. LA 2-91, eff. February 9, 1991.

**§ 11-902.4. Operating or being in actual physical control of motor vehicle while under the influence while under age-Penalties**

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 Nation 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 47 O.S. § 752; 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 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 device 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,

b. the continued installation of an ignition interlock device or devices, at the expense of the person after the mandatory period of cancellation, denial or revocation of driving privileges;

2. upon a second or subsequent conviction:

a. the cancellation or denial of driving privileges,

b. an assessment of the person's degree of alcohol abuse, which may result in treatment as deemed appropriate by the Court, and

c. the continued installation of an ignition interlock device or devices, at the expense of the person, after the mandatory period of cancellation, denial or revocation of driving privileges.

E. Nothing in this section shall be construed to prohibit the filing of charges pursuant to 47 CNCA § 11-902 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 any state's Department of Public Safety.

### History

**Source.** LA 10-13, eff. April 13, 2013.

### Library References

Automobiles <KEY>144.1(1.11), 332.

Indians <KEY>623, 627.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 391, 396, 1574 to 1598.

### **§ 11-903. Negligent homicide**

A. When the death of any person ensues within one (1) year as a proximate result of injury received by the driving of any vehicle by any person sixteen (16) years of age or older in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

B. Any person convicted of negligent homicide shall be guilty of a crime.

C. The Commissioner of Public Safety shall revoke the license or permit to drive and any nonresident operating privilege of any person convicted of negligent homicide.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>342.1.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1660 to 1670, 1672 to 1673, 1675 to 1680, 1682 to 1689.

### **§ 11-904. Person involved in personal injury accident while under influence of alcohol or other intoxicating substance-Causing great bodily injury**

A. Any person who is involved in a personal injury accident while driving or operating a motor vehicle within this state and who is in violation of the provisions of 47 CNCA § 11-902(A) may be charged with a violation of the provisions of this subsection as follows:

1. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a crime.

2. Any person who is convicted of a second or subsequent violation of the provisions of this subsection shall be deemed guilty of a crime.

B. 1. Any person who causes an accident resulting in great bodily injury to any person other than himself while driving or operating a motor vehicle within this state and who is in violation of the provisions of 47 CNCA § 11-902(A) may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a crime.

2. As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any

bodily member or organ.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Cross References

Appearance before Magistrate before bail set in certain cases, see 22 CNCA § 1115.5.

### Library References

Automobiles <KEY>332.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1574 to 1598.

## ARTICLE X. STOPPING, STANDING AND PARKING

### § 11-1001. Stopping, standing or parking outside of business or residence districts

A. Upon any highway outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred (200) feet in each direction upon such highway.

B. This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

### § 11-1002. Officers authorized to remove illegally stopped vehicle

A. Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of 47 CNCA § 11-1001, such officer is hereby authorized to move such vehicle, or require the driver or other

person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

B. Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any underpass where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

C. When any vehicle is left standing or abandoned upon a highway in violation of this section and at such a place or in such manner as to interfere or prevent the maintenance of said highway, the Cherokee Nation Marshal's Office or its designee may remove such vehicle or request the driver or other persons in charge thereof to move the same to some place of safety off the highway without charge to the owner of the vehicle.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Cross References

Stolen, converted, recovered and unclaimed vehicles, see 47 CNCA § 4-105.

### Library References

Automobiles <KEY>333.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

### § 11-1003. Stopping, standing or parking prohibited in specified places

A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within fifteen (15) feet of a fire hydrant;
4. Within an intersection;
5. On a crosswalk;
6. Within twenty (20) feet of a crosswalk at an intersection;
7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the authority having jurisdiction indicates a different length by signs or markings;
  9. Within fifty (50) feet of the nearest rail of a railroad crossing;
  10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance (when properly sign posted);
  11. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
  12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
  13. Upon any bridge or other elevated structure upon a highway or within a highway underpass;
  14. At any place where official signs prohibit stopping.
- B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>333.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

### **§ 11-1004. Additional parking regulations**

A. Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb.

B. Local authorities may by ordinance permit parking of vehicle with the left-hand wheels adjacent to and within eighteen (18) inches of the left-hand curb of a one-way roadway.

C. Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless Cherokee Nation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

D. Cherokee Nation with respect to highways under its jurisdiction may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly

interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

### **§ 11-1005. Authorized emergency vehicles; vehicles used in construction or maintenance of highways- Excepted from certain provisions**

Provisions of this article shall not apply to authorized emergency vehicles or to vehicles or machinery used in the construction or maintenance of highways, and such vehicles or machinery may be operated on any part of the road, whether same is open to traffic or closed, when such operation is necessary in the maintenance or construction of said highway; provided, that the Department of Highways or Cherokee Nation shall protect all such operations with adequate warnings, signs, signals, lights, devices, or flagmen.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

### **§ 11-1006. Parking of vehicles on posted private property-Penalty-Liability of landowner**

A. It shall be unlawful to place or park a motor vehicle or a trailer upon the posted private property of another, without first obtaining permission from the landowner or the person in charge of such property, except where said placing or parking is casual or involuntary.

B. Violation of the terms of this section shall be considered to be a crime and upon conviction violators shall be fined not to exceed Twenty Dollars (\$20.00) and, in addition thereto, shall pay any and all reasonable and necessary charges incurred by the landowner or other person in having any vehicle or trailer removed from his property and stored.

C. The landowner or person in charge of the land shall not be liable for any damages which may occur to a trespassing vehicle or trailer under the terms of this section, while the same is trespassing or while it is being

removed from his property, or while it is in storage.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333.

Indians <KEY>623, 626.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

### **§ 11-1007. Placing or parking vehicle in parking space designated and posted for physically-disabled persons-Penalties-Reciprocity agreements**

A. It shall be unlawful for any person to place or park a motor vehicle in any parking space on private property accessible to the public and where the public is invited or public property that is designated and posted as a reserved area for parking of motor vehicles of a physically disabled person unless such is eligible for a detachable insignia as a physically disabled person under the provisions of 47 CNCA § 15-112, and such insignia is displayed as provided in 47 CNCA § 15-112 or regulations adopted pursuant thereto.

B. Violation of these provisions shall be a crime and upon conviction such person shall be fined not more than Fifty Dollars (\$50.00) and, in addition thereto, such person shall pay any and all reasonable and necessary charges incurred by the landowner or other person in having any motor vehicle removed from the property and stored.

C. The Cherokee Nation Marshal is hereby authorized to enter into reciprocity agreements with other states for the purpose of recognizing handicapped parking permits issued by those states.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333.

Indians <KEY>623, 626.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

### **§ 11-1008. Power of Cherokee Nation Marshal's Office to enforce act**

The Cherokee Nation Marshal's Office may enact and enforce any ordinance, rule or regulation adopted in conformity with this act. Such ordinance shall also authorize the Nation to investigate accidents on private property where the public is invited or on public property.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

## **ARTICLE XI. MISCELLANEOUS RULES**

### **§ 11-1101. Unattended motor vehicle**

The person driving or in charge of a motor vehicle shall not permit it to stand unattended without first stopping the engine, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>334.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles § 1754.

### **§ 11-1102. Limitations on backing**

No vehicle shall be backed upon any street or highway except for such distance as may be necessary to permit the vehicle to enter the proper driving lane from a parked position. Such backing shall be done only after the driver of said vehicle has ascertained that such movement can be made without endangering other traffic.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-1103. Riding on motorcycles

No person shall drive a motorcycle, motor scooter, or a motorbicycle while transporting more than one (1) passenger, except a motorcycle, motor scooter or motorbicycle factory-designed for the purpose of carrying additional passengers.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 11-1104. Obstruction to driver's view or control-Overloading school bus

A. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle.

C. No school bus shall be operated on the streets or highways in this Nation when loaded with passengers in excess of the number for which such bus is designed to carry. The number of passengers determined by the local school board which the bus is designed to carry shall be posted in a conspicuous place on the bus.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>327, 335, 337.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1639, 1709 to 1714, 1748, 1750, 1752, 1755 to 1756.

### § 11-1105. Opening and closing vehicle doors

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

#### History

**Source.** LA 2-91, eff. February 9, 1991.

#### Library References

Automobiles <KEY>327.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles § 1639.

### **§ 11-1106. Driving on mountain highways**

The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand edge of the highway as reasonably possible.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>331.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1551, 1641 to 1657.

### **§ 11-1108. Following fire apparatus and other emergency vehicles prohibited**

A. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

B. The driver of any vehicle other than one on official business shall not follow any emergency vehicle or shall not purposely drive to any location on a highway where an emergency exists which would interfere with the free movement of authorized emergency vehicles or any other traffic using the high-way at that location. For the purpose of this subsection the definition of emergency shall include traffic accidents, airplane accidents, disasters, explosions, civil disturbances and (without limitation by the foregoing) any other related circumstances which tend to cause traffic congestion.

The purpose of this subsection is to eliminate sightseers and other persons who do not have official business at the scene of an emergency, and whose presence would tend to cause traffic congestion.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-1110. Putting glass, etc., on highway prohibited**

A. No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substances likely to injure any person, animal or vehicle upon such highway.

B. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

C. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

D. No person shall throw any substance at a standing vehicle or any occupant thereof, nor shall any person throw any substance at a person on or adjacent to a highway.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>348.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1690 to 1691.

### **§ 11-1112. Child passenger restraint system required for certain vehicles-Exemptions**

A. Every driver when transporting a child under four (4) years of age in a motor vehicle operated on the roadways, streets, or highways of this state shall provide for the protection of said child by properly using a child passenger restraint system, or a properly secured seat belt in the rear seat of the motor vehicle. For purposes of 47 CNCA §§ 11-1112 and 11-1113, "child passenger restraint system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the United States Department of Transportation.

B. Children four (4) or five (5) years of age shall be protected by use of a child passenger restraint system or a seat belt.

C. The provisions of this section shall not apply to:

1. A nonresident driver transporting a child in this state; and
2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws; and
3. The driver of an ambulance or emergency vehicle; and
4. A driver of a vehicle if all of the seat belts in the vehicle are in use; and

5. The transportation of children who for medical reasons are unable to be placed in such devices.

D. A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provisions of this section and to give an oral warning to said driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle.

E. A violation of the provisions of this section shall not be admissible as evidence in any civil action or proceeding for damages.

F. In any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this section shall not be used in aggravation or mitigation of damages.

G. Any person convicted of violating subsection (A) or (B) of this section shall be punished by a fine of Ten Dollars (\$10.00) and shall pay a maximum of Fifteen Dollars (\$15.00) court costs thereof. This fine shall be suspended in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system. Provided, the Department of Public Safety shall not assess points to the driving record of any licensed or unlicensed person convicted of a violation of this section.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>327.

Indians <KEY>520(3), 535, 623.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles § 1639.

### § 11-1113. Reserved

### § 11-1114. Allowing passenger to ride outside of compartment

A. No operator of a motor vehicle shall allow a passenger to ride outside the passenger compartment of the vehicle on the streets, highways or turnpikes of Cherokee Nation; provided, this section shall not apply to persons so riding on private property or for parades or special events nor shall this section apply to passengers riding on the bed of a pickup truck.

B. Any person convicted of violating the provisions of subsection (A) of this section shall be punished by a fine of Fifteen Dollars (\$15.00) and shall pay court costs of Sixty Dollars (\$60.00) provided the Department of Public Safety shall not assess points to the driving record of any licensed or unlicensed person convicted of a

violation of this section.

### History

**Source.** LA 25-06, eff. October 19, 2006.

### § 11-1115. Railroad crossings

At a railroad-highway grade crossing, a person operating a Class A, B or C commercial motor vehicle as described in 47 CNCA §§ 1-107.1, 1-107.2 and 1-107.3 shall not negotiate the crossing if there is:

1. Insufficient space to drive completely through the crossing without stopping; or
2. Insufficient clearance for the undercarriage of the vehicle.

### History

**Source.** LA 25-06, eff. October 19, 2006.

## ARTICLE XII. OPERATION OF BICYCLES AND PLAY VEHICLES

### § 11-1201. Effect of regulations

A. It is an offense and punishable by fine of not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00) for any person to do any act forbidden or fail to perform any act required in this article.

B. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

C. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Indians <KEY>623.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-1202. Traffic laws apply to persons riding bicycles

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this act, except as to special regulations in this article and except to those provisions of this act which by their nature can have no application.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-1203. Riding on bicycle

A. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-1204. Clinging to vehicles

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-1205. Riding on roadways and bicycle paths**

A. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

B. Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

C. Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-1206. Carrying articles**

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handle bars.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### **§ 11-1207. Lamps and other equipment on bicycles**

A. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of

a type approved by the Department which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>328.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles § 1640.

## ARTICLE XIII. MAINTENANCE, CONSTRUCTION AND SAFETY ZONES

### § 11-1301. Driving through safety zones prohibited

No vehicle shall at any time be driven through or within a safety zone.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

### § 11-1302. Maintenance and construction zones

A. Cherokee Nation within its jurisdiction may close roads and highways to traffic while such highway is under repair, maintenance or construction and, in exercising such authority, shall erect or cause to be erected control devices and barricades to warn and notify the public that said highway has been closed to traffic.

B. When any highway has been closed to traffic under the provisions of subsection (A) and traffic-control devices or barricades have been erected, it shall be unlawful for any person to drive any vehicle through, under, over, or around such traffic-control devices or barricades, or otherwise to enter said closed area; except, that the

provisions of this subsection shall not apply to persons while engaged in the construction, maintenance and repair of said highway or to persons entering therein for the protection of lives or property; provided that persons having their places of residence or places of business within such closed area may travel, when possible to do so, through such area at their own risk.

C. Whenever construction, repair and maintenance of any highway is being performed under traffic, the governing body having jurisdiction over said highway shall erect, or cause to be erected, traffic-control devices to warn and guide the public, and every person using such highway shall obey all signs, signals, markings, flagmen or other traffic-control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area.

D. No person shall remove, change, modify, deface or alter any traffic-control device or barricade which has been erected on any highway under the provisions of this article.

E. Nothing in this article shall relieve contractors, agents, servants or employees from liability for failure to perform any of the duties imposed herein.

F. Any person who violates any provision of this article shall be guilty of a crime and upon conviction thereof shall be subject to a fine not to exceed One Hundred Dollars (\$100.00) and imprisonment in a penal institution not to exceed thirty (30) days, or both such fine and imprisonment, and shall be liable for any damage to property, or injury to or death to persons caused by such violations.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Cross References**

Traffic-control signal legend, see 47 CNCA § 11-202.

### **Library References**

Automobiles <KEY>335.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1748, 1750, 1752, 1755 to 1756.

## **CHAPTER 12**

### **EQUIPMENT OF VEHICLES**

#### **Cross References**

Penalties for crimes which would be a misdemeanor under Oklahoma law-Plea of guilty by written statement-Acts not otherwise punishable by imprisonment, see 47 CNCA § 17-101.

## **ARTICLE IV. OTHER EQUIPMENT**

## § 12-417. Safety belt law

A. 1. Every operator and front seat passenger of a passenger car operated in the jurisdiction of the Cherokee Nation shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the motor vehicle when manufactured pursuant to 49 C.F.R. § 571.208.

2. For the purposes of this section, "**passenger car**" shall mean "vehicle" as defined in 47 CNCA § 1-186. "Passenger car" shall include the passenger compartment of pickups, vans, minivans, and sport utility vehicles, "Passenger car" shall not include trucks, truck-tractors, recreational vehicles, motorcycles, or motorized bicycles. "Passenger car" shall not include a vehicle used primarily for farm use which is registered and licensed pursuant to the provisions of 68 CNCA § 1258.

B. This section shall not apply to persons eligible for an exception for medical reasons pursuant to 59 O.S. § 495 and any other similar statute of another state.

C. This section shall not apply to an operator of a motor vehicle while performing official duties as a route carrier of the U.S. Postal Service.

D. Fine and court costs for violating the provisions of this section shall not exceed Twenty Dollars (\$20.00) plus Sixty Dollars (\$60.00) court costs.

### History

**Source.** LA 25-06, eff. October 19, 2006.

### Oklahoma Statutes

Issuance of licenses, see 59 O.S. § 495.

### Code of Federal Regulations

Standard No. 201; occupant protection in interior impact, see 49 C.F.R. § 571.208.

### Library References

Automobiles <KEY>327.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles § 1639.

## ARTICLE VI. MOTORCYCLES

### § 12-609. Motorcycle and motor scooter

The following equipment shall be required on all motorcycles and all motor scooters except on actual trail rides conducted outside of public roads and highways:

1. Rear View Mirrors. All vehicles covered under this section shall be equipped with two mirrors, containing a

reflection surface of not less than three (3) inches in diameter, mounted one on each side of the vehicle and positioned so as to enable the operator to clearly view the roadway for a distance of two hundred (200) feet to the rear of his vehicle.

2. Windshield. All vehicles covered under this section shall be equipped with a windshield of sufficient quality, size and thickness to protect the operator from foreign objects, except that in lieu of such windshield the operator shall wear goggles or face shield of material and design to protect him from foreign objects.

3. Brakes. All vehicles covered under this section shall be equipped with brakes adequate to control the movement of same to stop and hold such vehicles, including two (2) separate means of applying the brakes, one means shall be effective to apply the brakes to the front wheel and one means shall be effective to apply the brakes to the rear wheels. All such vehicles shall be equipped with a stop lamp on the rear of the vehicle, which shall display a red or amber light or any shade of color between red and amber, visible from a distance of not less than one hundred (100) feet to the rear in normal sunlight, and which shall be actuated upon application of the service brake.

4. Speedometer. All vehicles covered under this section shall be equipped with a properly operating speedometer capable of registering at least the maximum legal speed limit for that vehicle.

5. Fenders. All vehicles covered under this section shall be equipped with a fender over each wheel. All fenders shall be of the type provided by the manufacturer.

6. Lights. All vehicles covered under this section shall carry at least one (1) lighted headlamp capable of showing a white light visible at least three hundred (300) feet in the direction in which the same are proceeding, and one (1) tail lamp mounted on the rear which, when lighted, shall emit a red light plainly visible from at least three hundred (300) feet to the rear, and such lights required by this section shall be burning whenever such vehicles are in motion during the period from one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the streets are not clearly discernible at a distance of at least five hundred (500) feet ahead.

7. Headgear. No person under eighteen (18) years of age shall operate or ride upon any vehicle covered under this section unless such person is equipped with and wearing on the head a crash helmet of a type which complies with standards established by the Department of Public Safety. All crash helmets shall consist of lining, padding and chin straps and be of the type as not to distort the view of the driver. The Commissioner of the Department of Public Safety is hereby authorized to approve or disapprove protective headgear and eye-protective devices sold and required herein, and to issue and enforce regulations establishing standards and specifications for approval thereof. The Commissioner shall publish lists of all approved protective headgear and eye-protective devices by name and type. Provided, however, the Department may not recommend one brand in preference to another if quality is identical.

### **History**

**Source.** LA 25-06, eff. October 19, 2006.

### **Library References**

Automobiles <KEY>327, 328.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1639 to 1640.

## CHAPTER 14

### SIZE, WEIGHT AND LOAD

#### Cross References

Penalties for crimes which would be a misdemeanor under Oklahoma law-Plea of guilty by written statement-Acts not otherwise punishable by imprisonment, see 47 CNCA § 17-101.

#### § 14-107. Definitions

As used in this chapter:

1. **"Axle load"** means the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty (40) inches apart, extending across the full width of the vehicle.
2. **"Nondivisible"** means any load or vehicle exceeding applicable length or weight which, if separated into smaller loads or vehicles, would;
  - a. compromise the intended use of the vehicle;
  - b. destroy the value of the load or vehicle; or
  - c. require more than eight (8) hours to dismantle using appropriate equipment.
3. **"Tandem axle"** means any two or more consecutive axles whose centers are more than forty (40) inches apart, but not more than ninety-five (95) inches apart.

#### History

**Source.** LA 25-06, eff. October 19, 2006.

#### § 14-109. Overload, any axle or gross weight

A. On any road or highway within Cherokee Nation:

1. No single axle weight shall exceed twenty thousand (20,000) pounds; and
2. The total gross weight in pounds imposed thereon by a vehicle or combination of vehicles shall not exceed the value given in the following table corresponding to the distance in feet between the extreme axles of the group measured longitudinally to the nearest foot:

Distance in Feet Between the Extremes of Any Group of 2 or More Consecutive Axles	Maximum Load in Pounds Carried on Any Group of 2 or More Consecutive Axles
---	--

2 Axles	3 Axles	4 Axles	5 Axles	6 Axles
34,000	---	---	---	---
34,000	---	---	---	---
34,000	---	---	---	---
34,000	---	---	---	---
34,000	42,000	---	---	---
39,000	42,500	---	---	---
---	40,000	43,500	---	---
---	---	44,000	---	---
---	---	45,000	50,000	---
---	---	45,500	50,500	---
---	---	46,500	51,500	---
---	---	47,000	52,000	---
---	---	48,000	52,500	58,000
---	---	48,500	53,500	58,500
---	---	49,500	54,000	59,000
---	---	50,000	54,500	60,000
---	---	51,000	55,500	60,500
66,000	---	51,000	56,000	61,000
66,500	---	52,500	56,500	61,500
67,000	---	53,000	57,500	62,500
68,000	---	54,000	58,000	63,000

68,500				
25		----	54,500	58,500
69,000				63,500
26		----	56,000	59,500
69,500				64,000
27		----	57,500	60,000
70,000				65,000
28		----	59,000	60,500
71,000				65,500
29		----	60,500	61,500
71,500				66,000
30		----	62,000	62,000
72,000				66,500
31		----	63,500	63,500
72,500				67,000
32		----	64,000	64,000
73,500				68,000
33		----		64,500
68,500	74,000			
34		----		65,000
69,000	74,500			
35		----		66,000
70,000	75,000			
36		----		68,000
70,500	75,500			
37		----		68,000
71,000	76,000			
38		----		69,000
72,000	77,000			
39		----		70,000
72,500	77,500			
40		----		71,000
73,000	78,000			
41		----		72,000
73,500	78,500			
42		----		73,000
74,000	79,000			
43		----		73,280
75,000	80,000			
44		----		73,280
75,500	80,500			
45		----		73,280
76,000	81,000			
46		----		73,280
76,500	81,500			
47		----		73,500
77,500	82,000			
48		----		74,000
78,000	83,000			

49			----	----	74,500
78,500	83,500				
50			----	----	75,500
79,000	84,000				
51			----	----	76,000
80,000	84,500				
52			----	----	76,500
80,500	85,000				
53			----	----	77,500
81,000	86,000				
54			----	----	78,000
81,500	86,500				
55			----	----	78,500
82,500	87,000				
56			----	----	79,500
83,000	87,500				
57			----	----	80,000
83,500	88,000				
58			----	----	----
	84,000	89,000			
59			----	----	----
	85,000	89,500			
60			----	----	----
	85,500	90,000			

B. Except as to gross limits, the table in subsection (A) of this section shall not apply to a truck-tractor and dump semitrailer when used as a combination unit. In no event shall the maximum load in pounds carried by any set of tandem axles exceed thirty-four thousand (34,000) pounds for vehicles exempt from the table; however, any vehicle operating with split tandem axles or tri-axles shall adhere to the table.

C. Special permits may be issued as provided in this title for divisible loads for vehicle configurations in excess of six (6) axles. The permits may not exceed the Table "B" federal weights formula imposed by 23 U.S.C. § 127. Vehicles moving under the permits shall not traverse H-15 bridges or less without the express approval of the Secretary of Transportation.

D. Except for loads moving under special permits as provided in this title, no department or agency of this Nation or any county, city, or public entity thereof shall pay for any material that exceeds the legal weight limits moving in interstate or intrastate commerce in excess of the legal load limits of this Nation.

E. Exceptions to this section will be:

1. Utility or refuse collection vehicles used by counties, cities, or towns or by private companies contracted by counties, cities, or towns if the following conditions are met:

a. calculation of weight for a utility or refuse collection vehicle shall be "Gross Vehicle Weight". The "Gross Vehicle Weight" of a utility or refuse collection vehicle may not exceed the otherwise applicable weight by more than fifteen percent (15%). The weight on individual axles must not exceed the manufacturer's component rating which includes axle, suspension, wheels, rims, brakes, and tires as shown on the vehicle certification label or tag, and

b. utility or refuse collection vehicles operated under these exceptions will not be allowed to operate on interstate highways;

2. Vehicles transporting timber, pulpwood, and chips in their natural state, vehicles transporting oil field fluids, oil field equipment, or equipment used in oil and gas well drilling or exploration, and vehicles transporting grain, if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate.

b. the vehicles do not exceed five percent (5%) of the gross limits set forth in subsection (A) of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways; and

3. Vehicles transporting rock, sand, gravel, and coal if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate.

b. the vehicles do not exceed five percent (5%) of the axle limits set forth in subsection (A) of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways.

F. Utility or refuse collection vehicles, vehicles transporting timber, pulpwood, and chips in their natural state, vehicles transporting oil field equipment or equipment used in oil and gas well drilling or exploration, vehicles transporting rock, sand, gravel, and coal and vehicles transporting grain, operating under exceptions shall purchase an annual special overload permit for One Hundred Dollars (\$100.00).

G. For purposes of this section, "utility vehicle" shall mean any truck used by a private utility company, county, city, or town for the purpose of installing or maintaining electric, water, or sewer systems.

### **History**

**Source.** LA 25-06, eff. October 19, 2006.

### **United States Code**

Vehicle weight limitations-Interstate System, see 23 U.S.C. § 127.

### **Library References**

Automobiles <KEY>337.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1709 to 1714.

## **CHAPTER 15**

## RESPECTIVE POWERS OF STATE AND LOCAL AUTHORITIES

### § 15-103. Rights of owners of real property

Nothing in this act shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner, and not as a matter of right, from prohibiting such use, or from requiring other or different or additional conditions than those specified in this act, or otherwise regulating such use as may seem best to such owner.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 15-112. Physical disability insignia

A. As used in this section:

1. "Physical disability" means an illness, disease, injury or condition by reason of which a person:

a. Cannot walk two hundred (200) feet without stopping to rest, or

b. Cannot walk without the use of or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistant device, or

c. Is restricted to such an extent that the person's forced (respiratory) expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest, or

d. Must use portable oxygen, or

e. Has functional limitations which are classified in severity as Class III or Class IV according to standards set by the American Heart Association, or

f. Is severely limited in his or her ability to walk due to an arthritic, neurological, or orthopedic condition.

2. "Physician" means any person holding a valid license to practice medicine and surgery, osteopathy, or chiropractic, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes.

B. Cherokee Nation adopts the physical disability insignia and issued by Department of Public Safety wherein it issues a detachable insignia indicating physical disability to any person who submits an application on forms furnished by the Department, together with a certificate signed by a physician stating that the applicant has a physical disability. The certificate of the physician and the detachable insignia shall each bear an expiration date reflecting the date estimated by the physician to be the termination date of such physical disability unless the physical disability is certified by the physician to be permanent.

C. The Department shall, upon request by a physician, provide said physician temporary insignias indicating physical disability to be issued, at the discretion of the physician, to any person who has a physical disability. The temporary insignia shall bear an expiration date reflecting the date estimated by the physician to be the

termination date of such physical disability, which shall not be later than six (6) months from the date of issuance.

D. A physician may sign a certificate stating that a person has a physical disability, as provided in subsection (B) of this section, or issue to a person a temporary insignia indicating physical disability, as provided in subsection (C) of this section, only if care and treatment of the illness, disease, injury or condition causing the physical disability of such person falls within the authorized scope of practice of said physician.

E. Cherokee Nation shall have the power to formulate, adopt and promulgate rules and regulations as may be necessary to implement and administer the provisions of this section, including, but not limited to, prescribing the manner in which the detachable insignia and the temporary insignia are to be displayed on a motor vehicle.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Cross References

Placing or parking vehicle in parking space designated and posted for physically-disabled persons-Penalties-Reciprocity agreements, see 47 CNCA § 11-1007.

### Library References

Automobiles <KEY>333.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

#### § 15-112.1. Parking places-Authorized use

No person shall be allowed to park in a handicapped parking place other than the person to whom the insignia indicating physical disability is issued.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

#### § 15-113. Penalties

Any person who knowingly makes or procures the making of a false statement in an application or certificate

submitted pursuant to this act or any person who knowingly makes unauthorized use of an insignia issued pursuant to this act is guilty of a crime and upon conviction shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). This penalty shall be stated on all applications and certificates.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>333.

Indians <KEY>623.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1749, 1753 to 1754.

## CHAPTER 16

### PARTIES AND PROCEDURE UPON ARREST

#### Cross References

Penalties for crimes which would be a misdemeanor under Oklahoma law-Plea of guilty by written statement-Acts not otherwise punishable by imprisonment, see 47 CNCA § 17-101.

#### § 16-101. Parties to a crime

A. Classification of parties. The parties to crimes are classified as:

1. Principals, and

2. Accessories.

B. Principals defined. All persons concerned in the commission of crime, and whether they directly commit the act constituting the offense or aid and abet in its commission, though not present, are principals.

C. Accessories defined. All persons who, after the commission of any crime, conceal or aid the offender, with the knowledge that he has committed a crime, and with intent that he may avoid or escape from arrest, trial, conviction, or punishment, are accessories.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>323.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1511, 1646, 1664, 1710, 1721.

### **§ 16-102. Offenses by persons owning or controlling vehicles**

It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Automobiles <KEY>322.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1511, 1646, 1721, 1729.

### **§ 16-103. Public officers and employees-Exceptions**

The provisions of Chapters 10, 11, 12 and 14, applicable to drivers of vehicles upon the highways, shall apply to the drivers of all vehicles owned or operated by the United States, the State of Oklahoma or any county, city, town, district or any other political subdivision of the state or of Cherokee Nation, subject to such specific exceptions as are set forth in this act.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 16-104. Procedure upon arrest for crime**

Whenever a person is arrested for any violation of this act declared herein to be a crime, which if committed under the laws of Oklahoma would be a felony, he shall be dealt with in like manner as upon arrest for the commission of any other crime.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Indians <KEY>600.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### **§ 16-105. When person must be taken immediately before a Magistrate**

Whenever any person is halted by a peace officer for any violation of this act not amounting to a crime but designated as an offense, he shall be taken without unnecessary delay before the proper Magistrate, as specified in 47 CNCA § 16-110, in either of the following cases:

1. When the person demands an immediate appearance before a Magistrate; or
2. In any other event when the person is issued a traffic citation by an authorized person and refuses to give his written promise to appear in court as hereinafter provided.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Library References**

Indians <KEY>605.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### **§ 16-106. When officer has option to take person before a Magistrate**

Whenever any person is halted by a peace officer for any violation of this act and is not required to be taken before a Magistrate as hereinbefore provided, the person shall, in the discretion of the officer, either be given a traffic citation as hereinafter provided, or be taken without unnecessary delay before the proper Magistrate, as specified in 47 CNCA § 16-110 in any of the following cases:

1. When the person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court;
2. Deleted;
3. When the person is charged with a violation of 47 O.S. § 13-103, relating to the refusal of a driver of a vehicle to submit such vehicle to an inspection and test; or
4. Deleted.

#### **History**

**Source.** LA 2-91, eff. February 9, 1991.

#### **Oklahoma Statutes**

Carrying registration certificate, inspection, see 47 O.S. § 14-110.

Owner and drivers to submit vehicles for inspection, see 47 O.S. § 13-103.

Vehicles transporting hazardous materials, see 47 O.S. § 12-409.

### **Library References**

Indians <KEY>605.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### **§ 16-108. Other criminal violations-Procedure**

A. Whenever a person is halted by a peace officer or highway patrolman for any violation of this title punishable as a crime, which if committed under the laws of Oklahoma would be misdemeanor, the officer may proceed in accordance with the Bail Bond Procedure Act, 22 CNCA § 1115 et seq.

B. If the person charged with the violation is a minor, then the citing peace officer shall ascertain from the minor the name and address of his parents or legal guardian, and said officer shall cause a copy of the "violation" to be mailed to the address of the parents or legal guardian, within three (3) days after the date of violation.

C. Whenever a person is halted by a peace officer or highway patrolman for any violation of this title punishable as a offense, the officer shall proceed in accordance with the Bail Bond Procedure Act, 22 CNCA § 1115 et seq.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Indians <KEY>604.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### **§ 16-109.1. Authority of officer at scene of accident**

Except for crimes which would be a felony if committed under the laws of Oklahoma, a police officer at the scene of a traffic accident may issue a written notice to appear to any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this title in connection with the accident.

In such cases the officer shall be endorsed as a witness and shall appear if said case is tried.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>349(15).

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1515, 1517, 1519 to 1521, 1523 to 1524.

### § 16-112. Failure to obey notice to appear

A. It shall be unlawful for any person to violate his written promise to appear given to an officer upon the issuance of a notice to appear regardless of the disposition of the charge for which such notice to appear was originally issued.

B. A written promise to appear in court may be complied with by an appearance by counsel.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### § 16-113. Procedure prescribed herein not exclusive

The foregoing provisions of this chapter shall govern all peace officers in making arrests without a warrant for violations of any provisions of Chapters 10, 11, 12 or 14, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>349(15).

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1515, 1517, 1519 to 1521, 1523 to 1524.

### § 16-114. Arrest of traffic violators without warrant

A peace officer may, without a warrant, arrest a person for any moving traffic violation of which the arresting officer or another police officer in communication with the arresting officer has sensory or electronic

perception including perception by radio, radar and reliable speed-measuring devices.

### History

Source. LA 2-91, eff. February 9, 1991.

### Library References

Automobiles <KEY>349(2).

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1514 to 1520, 1523 to 1524.

## CHAPTER 17

### PENALTIES

#### **§ 17-101. Penalties for crimes which would be a misdemeanor under Oklahoma law-Plea of guilty by written statement-Acts not otherwise punishable by imprisonment**

A. It is a crime for any person to violate any of the provisions of this title unless such violation is by this title or other law of Cherokee Nation designated as an offense.

B. 1. Every person convicted of a crime, which under the laws of Oklahoma would be a misdemeanor, which includes a violation of any of the provisions of 47 CNCA §§ 10-101 through 14-121 or 16-101 through 16-114 for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year thereafter such person shall be punished by a fine of not less than Twenty Dollars (\$20.00) nor more than Two Hundred Dollars (\$200.00) or by imprisonment for not more than twenty (20) days or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction such person shall be punished by a fine or not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

2. Any person violating the provisions of 47 CNCA §§ 10-101 through 14-121 or 16-101 through 16-114, where a jail sentence is not mandatory may, in the discretion of the prosecuting attorney wherein the offense occurred, be permitted to enter a plea of guilty by written statement by the person charged to be presented to the Court wherein the case is filed. A remittance covering the fine and costs may be considered and received with the same force and effect as a written plea of guilty.

C. Unless another penalty is in this title or by the laws of this Nation provided, every person convicted of a crime, which under the laws of Oklahoma would be a misdemeanor, for the violation of any other provision of this title shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

D. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of any of the provisions of this title which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed one day in the

discretion of the Court, in addition to any fine prescribed by law.

### History

**Source.** LA 2-91, eff. February 9, 1991.

### Cross References

Penalty for failure to report, see 47 CNCA § 10-114.

### Library References

Indians <KEY>623, 624.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### § 17-102. Penalty for crimes

Any person who is convicted of a violation of any of the provisions of this act herein or by the laws of this Nation declared to constitute a crime, which under the law of Oklahoma would be a felony, shall be punished by maximum imprisonment provided by 25 U.S.C. § 1302(7).

### History

**Source.** LA 2-91, eff. February 9, 1991.

### United States Code

Constitutional rights, see 25 U.S.C. § 1302.

### Library References

Indians <KEY>624.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

## CHAPTER 18

### RECORDS AND REPORTS OF CONVICTIONS

#### § 18-101. Record of traffic cases-Report of convictions to department

A. Every Magistrate or Judge of a Court shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form of traffic charge deposited with or presented to said Court or its traffic-violations bureau, and shall keep a record of every official action by said Court or its traffic-violations bureau

in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of fine or forfeiture resulting from every said traffic complaint or citation deposited with or presented to said Court or traffic-violations bureau.

B. Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act or other law regulating the operation of vehicles on highways every said Magistrate of the Court or Clerk of the Court of record, in which such conviction was had or bail was forfeited shall prepare and immediately forward to the Department an abstract of the record of said Court covering the case in which said person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct. A report need not be made of any conviction involving the illegal parking or standing of a vehicle. The Court shall not make such a report of a conviction involving speeding if the speed limit is not exceeded by more than ten (10) miles per hour.

C. Said abstract must be made upon a form furnished by the Department and shall include the name and address of the party charged, the number, if any, of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail forfeited and the amount of the fine or forfeiture as the case may be.

D. Every court of record shall also forward a like report to the Department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

## **CHAPTER 20**

### **EFFECT AND SHORT TITLE OF ACT**

#### **§ 20-101. Uniformity of interpretation**

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Indians <KEY>109.

Westlaw Topic No. 209.

C.J.S. Indians §§ 42 to 44.

#### **§ 20-102. Effect of headings**

Chapter, article and section headings contained herein shall not be deemed to govern, limit, modify or in any

manner affect the scope, meaning or intent of the provisions of any article or section hereof.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 20-103. Short title**

This act may be cited as the Uniform Vehicle Code.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **§ 20-105. Constitutionality**

The provisions of this act are severable and if any part or provision hereof shall be void the decision of the Court so holding shall not affect or impair any of the remaining parts or provisions of the act.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

## **Library References**

Statutes <KEY>1535(6), 1535(25).

Westlaw Topic No. 361.

C.J.S. Statutes §§ 117, 124, 131 to 132, 139 to 140.

## **MISCELLANEOUS LAWS**

### **CHAPTER 67**

### **CHEMICAL TESTS**

#### **§ 752. Administration of tests-Authorization-Liability-Laboratories-Independent analysis-Costs**

A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, duly certified by any state, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or other qualified person authorized by the Oklahoma Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer may withdraw blood for purpose of having a determination made of its concentration of alcohol or the presence or concentration of other intoxicating substance. Only qualified persons authorized by the Board may collect breath, saliva or urine, or administer tests of breath under the provisions of this Title.

B. If the person authorized to withdraw blood as specified in subsection (A) of this section is presented with a written statement:

1. authorizing blood withdrawal signed by the person whose blood is to be withdrawn;
2. signed by a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood;
3. signed by a duly authorized peace officer that the person whose blood is to be withdrawn has been placed under arrest and that the officer has probable cause to believe that the person, while intoxicated, has operated a motor vehicle in such manner as to have caused the death or serious physical injury of another person, or the person has been involved in a traffic accident and has been removed from the scene of the accident that resulted in the death or great bodily injury, as defined in Cherokee Nation Code Annotated, of any person to a hospital or other health care facility outside Cherokee Nation before the law enforcement officer was able to effect an arrest for such offense; or
4. in the form of an order from a district court that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

C. No person specified in subsection (A) of this section, no employer of such person, and no hospital or other health care facility where blood is withdrawn shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer, or when acting in reliance upon a signed statement or court order if the act is performed in a reasonable manner according to generally accepted clinical practice. No person specified in subsection (A) of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer or when acting pursuant to a court order.

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board, or tested by a laboratory that is exempt from the Board rules to determine the alcohol concentration thereof, or the presence or concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a motor vehicle safely.

E. When blood is withdrawn or saliva or urine is collected for testing of its alcohol concentration or other intoxicating substance presence or concentration, at the request of a law enforcement officer, a sufficient quantity of the same specimen shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess blood, saliva or urine specimen shall be retained by a laboratory approved by the Board, in accordance with the rules and regulations of the Board, or by a laboratory that is exempt from the Board rules, for sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional blood, saliva or urine specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

F. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in

accordance with the rules and regulations of the Board, to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer; provided, if the person is convicted for any offense involving the operation of a motor vehicle while under the influence of or while impaired by alcohol or an intoxicating substance, or both, as a direct result of the incident which caused the collection of blood, saliva or urine specimens, an amount equal to the costs shall become a part of the court costs of the person and shall be collected by the court and remitted to the law enforcement agency bearing the costs. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

H. Tests of blood or breath for the purpose of determining the alcohol concentration thereof, and tests of blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance therein, under the provisions of this Title, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this Title, shall have been administered or performed in accordance with the rules and regulations of the Board, or performed by a laboratory that is exempt from the Board rules.

I. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, breath, saliva or urine which is appropriate as determined by the Board for the purpose of determining its alcohol concentration or the presence or concentration of any other intoxicating substance therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of alcohol, or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

J. Any agency or laboratory certified by the Board or any agency or laboratory that is exempt from the Board rules, which analyses breath, blood, or urine shall make available a written report of the results of the test administered by or at the direction of the law enforcement officer to:

1. the tested person, or his or her attorney; and
2. the Office of the Attorney General.

The results of the tests provided for in this Title shall be admissible in civil actions.

### History

Source. LA 10-13, eff. April 13, 2013.

### Library References

Automobiles <KEY>422.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles § 1612.

### § 756. Admission of evidence shown by tests

A. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, evidence of the alcohol concentration in the blood or breath of the person as shown by analysis of the blood or breath of the person performed in accordance with the provisions of 47 CNCA § 752 or evidence of the presence or concentration of any other intoxicating substance as shown by analysis of such person's blood, breath, saliva, or urine specimens in accordance with the provisions of 47 CNCA § 752 is admissible. Evidence that the person has refused to submit to either of said analyses is also admissible. For the purpose of this Title, when the person is under the age of twenty-one (21) years, evidence that there was, at the time of the test, any measurable quantity of alcohol is prima facie evidence that the person is under the influence of alcohol in violation of 47 CNCA § 11-906.4. For persons twenty-one (21) years of age or older:

1. Evidence that there was, at the time of the test, an alcohol concentration of five-hundredths (0.05) or less is prima facie evidence that the person was not under the influence of alcohol;
2. Evidence that there was, at the time of the test, an alcohol concentration in excess of five-hundredths (0.05) but less than eight-hundredths (0.08) is relevant evidence that the person's ability to operate a motor vehicle was impaired by alcohol. However, no person shall be convicted of the offense of operating or being in actual physical control of a motor vehicle while such person's ability to operate such vehicle was impaired by alcohol solely because there was, at the time of the test, an alcohol concentration in excess of five-hundredths (0.05) but less than eight-hundredths (0.08) in the blood or breath of the person in the absence of additional evidence that such person's ability to operate such vehicle was affected by alcohol to the extent that the public health and safety was threatened or that said person had violated a state statute or local ordinance in the operation of a motor vehicle; and
3. Evidence that there was, at the time of the test, an alcohol concentration of eight-hundredths (0.08) or more shall be admitted as prima facie evidence that the person was under the influence of alcohol.

B. For purposes of this Title, "**alcohol concentration**" means grams of alcohol per one hundred (100)

milliliters of blood if the blood was tested, or grams of alcohol per two hundred ten (210) liters of breath if the breath was tested.

C. To be admissible in a proceeding, the evidence must first be qualified by establishing that the test was administered to the person within two (2) hours after the arrest of the person.

### **History**

**Source.** LA 10-13, eff. April 13, 2013.

### **Library References**

Indians <KEY>612.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

### **§ 761. Operation of motor vehicle while ability impaired by consumption of alcohol-Penalties-Suspensions-Violation not bondable**

A. Any person who operates a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

B. Upon the receipt of a certified report from a court that a person has forfeited bond or has been convicted or has pleaded guilty to two or more offenses of subsection (A) of this section, the Commissioner of the Department of Public Safety shall suspend the driving privilege of such person for a period of six (6) months. Such suspension shall not be subject to modification.

C. The violations as set out in this section shall not be bondable under 22 CNCA § 1115.3.

### **History**

**Source.** LA 02-91, eff. February 9, 1991.

### **Oklahoma Statutes**

State traffic-related offenses, state wildlife-related or water safety-related offenses, bail, see 22 O.S. § 1115.3.

### **Library References**

Automobiles <KEY>144.1(1.10).

Indians <KEY>623, 624.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 391 to 398.

## CHAPTER 74

### UNIFORM CERTIFICATE OF TITLE ACT

#### § 1111.1. Short title

This act may be cited as the "Cherokee Nation Uniform Certificate of Title Act of 2004."

#### History

**Source.** LA 43-04, eff. December 15, 2004.

#### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

#### § 1111.2. Applicability of supplemental principles of law

Unless displaced by the particular provisions of this act, the principles of law and equity supplement its provisions.

#### History

**Source.** LA 43-04, eff. December 15, 2004.

#### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

#### § 1111.3. Definitions

A. In this act:

1. **"Buyer"** means a person that buys or contracts to buy an ownership interest in a vehicle.
2. **"Buyer in ordinary course of business"** means a person that buys a vehicle in good faith, without knowledge that the sale violates the rights of another person in the vehicle, and in ordinary course from a

person, other than a pawnbroker, in the business of selling vehicles of that kind. A person buys a vehicle in ordinary course if the sale comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire a vehicle under a pre-existing contract for sale. Only a buyer that takes possession of the vehicle or has a right to recover the vehicle from the seller under Uniform Commercial Code Article 2 may be a buyer in ordinary course of business. The term does not include a person that acquires a vehicle in a transfer in bulk or as security for or in total or partial satisfaction of a money debt. A buyer in ordinary course of business does not lose that status solely because the certificate of title was not executed to the buyer.

3. **"Cancel,"** with respect to a certificate of title or a certificate of origin, means to make the certificate ineffective.
4. **"Certificate of origin"** means a record, created or authorized by a manufacturer or importer as the manufacturer's or importer's proof of identity of a vehicle.
5. **"Certificate of title"** means the record, created or authorized by the CNTC, that is evidence of ownership of a vehicle and designated a certificate of title by the CNTC.
6. **"Create,"** with respect to a certificate of title, means to bring the certificate of title into existence by making or authorizing the record that constitutes the certificate of title.
7. **"Deliver"** means to voluntarily give possession of a record to the recipient or to transmit it, by any reasonable means, properly addressed to the recipient and with the cost of delivery provided.
8. **"Electronic"** means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
9. **"Electronic certificate of origin"** means a certificate of origin consisting of information that is stored solely in an electronic medium and retrievable in perceivable form.
10. **"Electronic certificate of title"** means a certificate of title consisting of information that is stored solely in an electronic medium and retrievable in perceivable form.
11. **"Execute"** means to sign and deliver a record on, attached to, accompanying, or logically associated with a certificate of title or certificate of origin for the purpose of transferring ownership of the vehicle covered by the certificate.
12. **"Importer"** means a person authorized by a manufacturer to bring into and distribute in the United States new vehicles manufactured outside the United States.
13. **"Jurisdiction"** means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally-recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

14. **"Lessee in ordinary course of business"** means a person that leases a vehicle in good faith, without knowledge that the lease violates the rights of another person, and in ordinary course of business from a person, other than a pawnbroker, in the business of selling or leasing vehicles of that kind. A person leases in ordinary course if the lease to the person comports with the usual or customary practices in the kind of business in which

the lessor is engaged or with the lessor's own usual and customary practices. A lessee in ordinary course of business may lease for cash, by exchange of other property, or on secured or unsecured credit, and may acquire a vehicle or certificate of title covering a vehicle under a preexisting lease contract. Only a lessee that takes possession of the vehicle or has a right to recover the vehicle from the lessor under Uniform Commercial Code Article 2A may be a lessee in ordinary course of business. A person that acquires a vehicle in bulk or as security for or in total or partial satisfaction of a money debt is not a lessee in ordinary course of business.

15. "**Lien creditor**" means:

- a. a creditor that has acquired a lien on the property involved by attachment, levy, or the like;
- b. an assignee for the benefit of creditors from the time of assignment;
- c. a trustee in bankruptcy from the date of the filing of the petition; or
- d. a receiver in equity from the time of appointment.

16. "**Manufacturer**" means a person that manufactures, fabricates, assembles, or completes new vehicles.

17. "**Office**" means Cherokee Nation Tax Commission (CNTC).

18. "**Owner**" means a person having legal title to a vehicle.

19. "**Owner of record**" means the owner of a vehicle as indicated in the files of the CNTC.

20. "**Person**" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

21. "**Purchase**" means to take by sale, lease, mortgage, pledge, consensual lien, security interest, gift, or any other voluntary transaction that creates an interest in a vehicle.

22. "**Purchaser**" means a person that takes by purchase.

23. "**Record**" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

24. "**Secured party**" means:

- a. a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
- b. a person that is a consignor under Uniform Commercial Code Article 9;
- c. a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
- d. a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest is created or provided for; or

e. a person that holds a security interest arising under Uniform Commercial Code Section 2-401, 2-505, 2-711 (3), or 2A-508(5).

25. "**Secured party of record**" means the secured party first indicated in the files of the CNTC.

26. "**Security interest**" means an interest in goods that secures payment or performance of an obligation. The term includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Uniform Commercial Code Article 9. The term does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Uniform Commercial Code Section 2-401, but a buyer may also acquire a security interest by complying with Uniform Commercial Code Article 9. Except as otherwise provided in Uniform Commercial Code Section 2-505, the right of a seller or lessor of goods under Uniform Commercial Code Article 2 or 2A to retain or acquire possession of the goods is not a security interest, but a seller or lessor may also acquire a security interest by complying with Uniform Commercial Code Article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under Uniform Commercial Code Section 2-401 is limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined pursuant to Uniform Commercial Code Section 1-203.

27. "**Security interest statement**" means a record, created or authorized by a secured party, that indicates a security interest in a vehicle.

28. "**Sign**" means, with present intent to authenticate or adopt a record, to:

a. make or adopt a tangible symbol; or

b. attach to or logically associate with the record an electronic sound, symbol, or process.

29. "**Termination statement**" means a record, created or authorized by the secured party under 47 CNCA § 1111.24 or the debtor under 47 CNCA § 1111.22, that:

a. identifies the security interest statement to which it relates; and

b. indicates either that it is a termination statement or that the identified security interest statement is not effective.

30. "**Title brand**" means a designation of previous damage, use, or condition that this act or law other than this act requires to be indicated on a certificate of title or a certificate of origin.

31. "**Transfer**" means to convey, voluntarily or involuntarily, an interest in a vehicle.

32. "**Transferee**" means a person that takes by transfer.

33. "**Vehicle**" means any type of motorized, wheeled device in, upon, or by which an individual or property may be lawfully and customarily transported on a road or highway, or a commercial, recreational, travel, or other trailer, including manufactured homes. The term does not include:

a. specialized mobile equipment not designed primarily for transportation of individuals or property on a road or highway;

b. an implement of husbandry; or

c. a wheelchair or similar device designed for use by an individual having a physical impairment.

34. **"Written certificate of origin"** means a certificate of origin consisting of information that is inscribed on a tangible medium.

35. **"Written certificate of title"** means a certificate of title consisting of information that is inscribed on a tangible medium.

B. The following definitions in other laws apply to this act:

1. **"Account debtor,"** UCC Section 9-102(a)(3).

2. **"Agreement,"** UCC Section 1-201(b)(3).

3. **"Collateral,"** UCC Section 9-102(a)(12).

4. **"Debtor,"** UCC Section 9-102(a)(28).

5. **"Good faith,"** UCC Section 1-201(b)(20).

6. **"Lease,"** UCC Section 2A-103(a)(j).

7. **"Lessee,"** UCC Section 2A-103(1)(n).

8. **"Lessor,"** UCC Section 2A-103(a)(p).

9. **"Manufactured home"** UCC Section 9-102(a)(53).

10. **"Merchant,"** UCC Section 2-104(1).

11. **"Notice; Knowledge,"** UCC Section 1-202.

12. **"Representative,"** UCC Section 1-201(b)(33).

13. **"Sale,"** UCC Section 2-106(1).

14. **"Security agreement,"** UCC Section 9-102(a)(73).

15. **"Seller,"** UCC Section 2-103(1)(o).

16. **"Send,"** UCC Section 1-201(b)(36).

17. **"Value,"** UCC Section 1-204.

### History

Source. LA 43-04, eff. December 15, 2004.

## Oklahoma Statutes

Buyer's remedies in general; buyer's security interest in rejected goods, see 12A O.S. § 2-711.

Lease distinguished from security interest, see 12A O.S. § 1-203.

Lessee's remedies, see 12A O.S. § 2A-508.

Passing of title; reservation for security; limited application of this section, see 12A O.S. § 2-401.

Seller's shipment under reservation, see 12A O.S. § 2-505.

### § 1111.4. Law governing vehicles covered by certificate of title or certificate of origin

A. In this section, "certificate of title" includes a certificate of title created or authorized by a government agency of any jurisdiction which is permitted to create or authorize the certificate of title.

B. The local law of the jurisdiction under whose certificate of title a vehicle is covered governs all issues relating to the certificate of title, from the time the vehicle becomes covered by the certificate of title until the vehicle ceases to be covered by the certificate of title, even if there is no other relationship between the jurisdiction and the vehicle or its owner.

C. For purposes of this section, a vehicle becomes covered by a certificate of title when an application for a certificate of title and the fee are received by the CNTC in accordance with this act, or when an application for a certificate of title and the fee are received in another jurisdiction pursuant to the certificate of title law of that jurisdiction.

D. For purposes of this section and Uniform Commercial Code Article 9, a security interest statement that is effective under 47 CNCA § 1111.24 constitutes an application for a certificate of title if:

1. the debtor is located or has a place of business in this jurisdiction; and
2. an existing certificate of title covering the vehicle has not been created in another jurisdiction.

E. For purposes of this section, a vehicle ceases to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law pursuant to which it was created, or the time the vehicle subsequently becomes covered by another certificate of title, other than a certificate of title initiated only by a security interest statement, created in any jurisdiction.

F. If a vehicle is not covered by a certificate of title, but a certificate of origin has been created for the vehicle:

1. if the parties to the certificate have chosen the law of a jurisdiction, the law of that jurisdiction applies to the certificate of origin, even if this jurisdiction bears no other relation to the certificate of origin; and
2. in the absence of an agreement effective under paragraph 1 of this subsection, and except as provided in subsection (G) of this section, the rights and obligations of the parties are determined by the law that would be selected by application of this jurisdiction's conflict of laws principles.

G. An agreement otherwise effective under paragraph 1 of subsection (F) of this section is not effective to the extent that application of the law of the jurisdiction designated would be contrary to a fundamental policy of the jurisdiction whose law would govern in the absence of agreement under paragraph 1 of subsection (F). of this section

H. In the absence of an agreement as to choice of law, if a vehicle is not covered by a certificate of title or a certificate of origin, the rights and obligations of the parties to the certificate are determined by the choice of law principles of this jurisdiction.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.5. Exclusions

Unless the vehicle is covered by a certificate of title, this act does not apply to a vehicle owned by the United States, the government of a country other than the United States, an Indian tribe, a state, or a local government of a state.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.6. Vehicle identification number, make and model year

A. For each vehicle covered by a certificate of title, the CNTC must record as the vehicle identification number in the files of the CNTC the vehicle identification number, if any, assigned by its chassis manufacturer or importer.

B. If a vehicle is completed by a manufacturer using a chassis produced by another manufacturer, the make of the manufacturer that completes the vehicle must be used to describe the complete vehicle in the files of the CNTC that relate to the vehicle.

C. The model year of a complete new vehicle is the model year of chassis manufacture and must be the only model year indicated in the files of the CNTC that relates to the vehicle.

### History

Source. LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.7. Execution of certificate of origin

A. If a manufacturer or importer creates or is authorized or required to create a certificate of origin for a vehicle, upon transfer of ownership of the vehicle it shall execute a certificate of origin to the transferee or deliver a signed certificate of origin to the CNTC.

Each succeeding transferor shall execute to the next transferee or sign and deliver to the CNTC all certificates of origin covering the vehicle which are known to the transferor.

B. For the purpose of obtaining a certificate of title, a buyer may require that the buyer's transferor execute to the buyer a written certificate of origin.

### History

Source. LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.8. Cancellation of electronic certificate

If a written certificate of origin is created, any electronic certificate of origin covering the vehicle is canceled and replaced by the written certificate of origin.

### History

Source. LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### **§ 1111.9. Application for certificate of title**

A. Subject to 47 CNCA § 1111.20, an application for a certificate of title must contain:

1. the owner's name and physical address and, if different, an address for receiving communications by United States mail;
2. the vehicle identification number as provided in 47 CNCA § 1111.6;
3. a description of the vehicle including, as required by the CNTC, the make, model, model year, and body type;
4. an indication of all security interests in the vehicle which are known to the applicant;
5. any title brand known to the applicant and, if known, the jurisdiction that created the title brand;
6. a signed record disclosing the vehicle's odometer reading, as required under law other than this act to be provided by the transferor when ownership of the vehicle is transferred;
7. if the application is made in connection with a transfer of ownership, the transferor's and transferee's names, physical addresses and, if different, addresses for receiving communications by United States mail, and the sales price if any, and the date of the transfer;
8. if the application includes a direction to terminate a security interest statement, the secured party's name and address for receiving communications; and
9. the signature of the owner.

B. An application for a certificate of title may contain electronic communication addresses of the owner and the transferor.

C. Except as otherwise provided in 47 CNCA § 1111.21 or 1111.22, if an application for a certificate of title includes a transfer of ownership or a direction to terminate a security interest statement, the application must be accompanied by all existing certificates of origin and any certificate of title covering the vehicle, created or authorized in any jurisdiction, which are known to the applicant, executed to the owner or other transferee by the transferor. Except as otherwise provided in Section 22, if the application includes a direction to terminate a security interest statement, the application must be accompanied by a termination statement under Section 26.

D. If an application for a certificate of title does not include a transfer of ownership or a direction to terminate a security interest statement, except as otherwise provided in 47 CNCA § 1111.23, the application must be accompanied by all existing certificates of origin and certificates of title covering the vehicle known to the applicant, created or authorized in any jurisdiction, evidencing the applicant as owner of the vehicle.

E. If there is no existing certificate of origin or certificate of title covering the vehicle known to the applicant, created or authorized in any jurisdiction, an application for a certificate of title must be accompanied by all existing information or records of the vehicle's ownership known to the applicant. Information submitted under this subsection is part of the application for the certificate of title and must be indicated in the files of the CNTC.

F. A power of attorney, including a simple power of attorney, may be used to meet the requirements of this section, unless prohibited by law other than this act.

G. The CNTC may require that the application for a certificate of title be accompanied by any tax or fee payable by the applicant under the law of this jurisdiction in connection with the acquisition or use of a vehicle, or evidence of payment of that tax or fee.

H. A security interest statement is subject to subsection (G) of this section, and is an application for a certificate of title under 47 CNCA § 1111.4.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.10. Creation of an cancellation of certificate of title

A. Unless an application for a certificate of title is rejected under subsection (C) of this section, the CNTC shall create a certificate of title upon submission of an application that complies with 47 CNCA § 1111.9 and payment of all taxes and fees.

B. The CNTC may create a written certificate of title or, if the CNTC authorizes or creates electronic certificates of title, an electronic certificate of title, at the option of the secured party of record or, if no security interest is indicated in the files of the CNTC, at the option of any owner of record. If no request is made by an owner of record or secured party, the CNTC may create a written certificate of title or an electronic certificate of title.

C. The CNTC may reject an application for a certificate of title only if:

1. the application does not comply with 47 CNCA § 1111.9;
2. there is a reasonable basis for concluding that the application is fraudulent or would facilitate a fraudulent or illegal act; or
3. the application otherwise does not comply with law other than this act.

D. Rejection of an application affects only the applicant's ownership and does not alter the receipt or effect of a security interest statement under 47 CNCA § 1111.4, 1111.24, or 1111.25.

E. If the CNTC has created a certificate of title, it may cancel the certificate of title only if the CNTC could have rejected the application under subsection (C) and after providing an opportunity for a hearing. At this hearing the applicant and any other interested party may present evidence in support of the application. The CNTC shall provide at least thirty (30) days' notice of the opportunity for a hearing, served in person or sent by regular mail to the applicant, the owner of record, and all secured parties indicated in the files of the CNTC.

F. Cancellation of a certificate of title, or rejection of an application for a certificate of title, does not alter the receipt or effect of a security interest statement under 47 CNCA § 1111.4, 1111.24, or 1111.25 or Uniform Commercial Code Article 9.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### **§ 1111.11. Contents of certificate of title**

A. Except as otherwise provided in 47 CNCA § 1111.20, a certificate of title must contain:

1. the date the certificate of title was created;
2. except as otherwise provided in 47 CNCA § 1111.25(B), the name and address of any secured party of record showing that status and an indication of the existence of any additional security interests disclosed under 47 CNCA § 1111.9 or indicated in a security interest statement effective under 47 CNCA § 1111.24, or otherwise indicated in the files of the CNTC or on a certificate of title created in any jurisdiction and submitted to the CNTC;
3. all title brands known to the CNTC, including brands previously indicated on a certificate of title or certificate of origin created in this jurisdiction or another jurisdiction; and
4. the information required for an application pursuant to 47 CNCA § 1111.9(A)(1) through (6).

B. The indication of a title brand on the certificate of title may use abbreviations, but not symbols, and must identify any jurisdiction whose certificate of title indicated the title brand. If the meaning of the previous title brand is not easily ascertainable or cannot be accommodated on the certificate of title, the certificate of title may state: "Previously branded in [the jurisdiction in which the title brand was previously indicated]."

C. If a vehicle was previously registered for use in a jurisdiction outside the United States, the CNTC shall

indicate on the certificate of title that the vehicle was previously registered in that jurisdiction.

D. A certificate of title must contain a form for the owner to sign in executing the certificate.

### History

Source. LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.12. Certificate of title and certificate of origin not subject to judicial process

A. A certificate of title or a certificate of origin does not by itself provide a right or a means to obtain possession of the vehicle covered by the certificate and is not itself subject to garnishment, attachment, levy, replevin, or other judicial process against property. However, this act does not prohibit enforcement of a security interest in, levy on, or foreclosure of a statutory or common law lien on, a vehicle, as permitted under law other than this act. The absence of an indication of a statutory or common law lien on a certificate of title does not invalidate the lien.

B. This section does not relieve a person of any duty under this act or law other than this act or preclude any remedies in personam.

### History

Source. LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.13. Other information

A. The CNTC may accept a submission of information relating to a vehicle for inclusion in the files of the CNTC, even if the requirements for a certificate of title, an application for a certificate of title, a security interest statement, or a termination statement have not been met.

B. A submission of information under this section must include, to the extent practicable, the information required under 47 CNCA § 1111.9 for an application for a certificate of title.

C. To effectuate the law of this jurisdiction, the CNTC may require a person to provide other information relating to a vehicle, as required for payment of taxes or for issuance or renewal of license tags.

D. The CNTC may require a person submitting information under this section to provide a bond in the form and amount determined by the CNTC. Any bond must provide for indemnification of any secured party or other interested party against any expense, loss, or damage resulting from the submission and inclusion of the information in the files of the CNTC.

E. A submission of information under this section and its inclusion in the files of the CNTC is not a certificate of title, an application for a certificate of title, a security interest statement, or a termination statement and does not provide a basis for transferring or determining ownership of a vehicle or receipt or termination of a security interest statement.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### **§ 1111.14. Maintenance of files**

A. For each record filed in the CNTC, the CNTC shall:

1. ascertain the vehicle identification number of the vehicle to which the record applies;
2. create or maintain a file that indicates the vehicle identification number of the vehicle to which the record applies and the information in the record, including the date and time the record was delivered to the CNTC;
3. maintain the file for public inspection, subject to subsection (D); and
4. index each file so as to be accessible by the vehicle identification number for the vehicle and any other indexing methods provided by the CNTC.

B. The CNTC shall maintain files of the information contained in all certificates of title created under this act. Each file must be accessible by the vehicle identification number for the vehicle covered by the certificate and any other indexing method used by the CNTC.

C. Each file maintained under this section must include all indicated security interests, title brands, and stolen property reports applicable to the vehicle, and the name and address of any known secured party or claimant to ownership.

D. Files of the CNTC are subject to the Cherokee Nation Freedom of Information Act, 67 CNCA § 101 et seq., (LA 25-01), as amended, and other law as applicable.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.15. Delivery of certificate of title

A. Upon creation of a certificate of title, the CNTC shall promptly deliver the certificate of title, if written, or a record evidencing an electronic certificate of title, if electronic, to the secured party of record, if any, at the address shown on the security interest statement submitted by the secured party of record and, unless previously provided to the owner of record, shall deliver a record evidencing the certificate of title to that owner at the address indicated in the files of the CNTC. If no secured party is indicated in the files of the CNTC, the certificate of title or record evidencing the electronic certificate of title must be delivered to the owner of record. The secured party of record, if any, may elect to have the CNTC create a written certificate of title. The owner of record also may make such an election but only if no secured party is indicated in the files of the CNTC.

B. Within a reasonable period not to exceed fifteen (15) business days after receipt of a request for a written certificate of title pursuant to subsection (A), the CNTC shall create and deliver the certificate to the person making the request.

C. If a written certificate of title is created, any existing electronic certificate of title covering the vehicle is canceled. The cancellation must be noted in the files of the CNTC with an indication of the date and time of the cancellation.

D. Any existing written certificate of title must be canceled before an electronic certificate of title is created. The cancellation must be noted on the face of the written certificate of title and in the files of the CNTC with an indication of the date and time of the cancellation.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

## § 1111.16. Transfer

A. Upon sale of a vehicle located in this jurisdiction or covered by a certificate of title created in this jurisdiction, a person authorized to execute the certificate of title or certificate of origin covering the vehicle, as promptly as practicable and in compliance with this act and any law other than this act, shall execute the certificate to the buyer. The buyer of a vehicle located in this jurisdiction or covered by a certificate of title created in this jurisdiction has a specifically enforceable right to require the seller to execute the certificate of title or certificate of origin to the buyer.

B. Execution of a certificate of title covering the vehicle created in any jurisdiction satisfies the requirement in subsection (A) of this section.

C. Execution of a certificate of title covering a vehicle created in any jurisdiction or a certificate of origin transfers the transferor's legal title to the vehicle to the transferee.

D. As between the parties to the transfer and their assignees and successors, a transfer of legal title is not rendered ineffective by a failure to execute a certificate of title or certificate of origin as provided in this section. However, except as otherwise provided in 47 CNCA § 1111.18 or 1111.19, a transfer of legal title without execution of a certificate of title covering the vehicle created in any jurisdiction is not effective as to other persons claiming an interest in the vehicle.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>19, 20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 75 to 110.

## § 1111.17. Notice of transfer without application

A transferor or transferee of legal title to a vehicle may submit a signed record to the CNTC evidencing the transfer, without filing an application for a certificate of title, in accordance with standards and procedures established by the CNTC. The record may evidence the transfer of legal title between the transferor and transferee but is not effective as to other persons claiming an interest in the vehicle.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>19, 20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 75 to 110.

### **§ 1111.18. Power to transfer**

A. A purchaser of a vehicle acquires all interests that the transferor had or had power to transfer, except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person having voidable title to a vehicle has power to transfer a good title to a good faith purchaser for value. If ownership of a vehicle has been transferred in a transaction of purchase, the purchaser has the power to transfer good title to a good faith purchaser for value even though:

1. the transferor was deceived as to the identity of the purchaser in the transaction of purchase;
2. the transfer in the transaction of purchase was in return for a check that was later dishonored;
3. it was agreed that the transaction of purchase was to be a "cash sale";
4. the transfer in the transaction of purchase was procured through fraud punishable as larcenous under the criminal law; or
5. a certificate of title was not executed.

B. Entrusting of a vehicle to a merchant that deals in vehicles or other goods of that kind gives the merchant the power to transfer all rights of the entruster to a buyer in ordinary course of business or, to the extent of the lessee's interest, to a lessee in ordinary course of business, even if the certificate of title is not executed to the buyer or lessee. In this subsection, "entrusting" includes any relinquishment of possession and any acquiescence in retention of possession of the vehicle regardless of any condition expressed between the parties to the relinquishment or acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the vehicle was larcenous under the criminal law.

C. This section is subject to Uniform Commercial Code Section 2A-303.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>19, 20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 75 to 110.

### **§ 1111.19. Other transferees of vehicle covered by certificate of title**

A. Except as otherwise provided in this section or in 47 CNCA § 1111.18, a transferee of a vehicle takes subject to:

1. a valid security interest in the vehicle indicated on the certificate of title; and
2. if the certificate of title contains a statement that the vehicle is or may be subject to security interests not shown on the certificate of title, a valid security interest not so indicated.

B. If, during the period a security interest in a vehicle is perfected by any method under the law of any jurisdiction, the CNTC creates a written certificate of title that does not indicate that the vehicle is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate, a buyer of the vehicle, other than a person in the business of selling or leasing vehicles of that kind, takes free of the security interest if the buyer:

1. in good faith gives value, receives possession of the vehicle, and obtains execution of the written certificate of title; and
2. does not have notice of the security interest in the vehicle.

C. A buyer in ordinary course of business or a lessee in ordinary course of business of a vehicle takes free of a security interest, including a security interest indicated on the certificate of title, created by the buyer's seller or the lessee's lessor, even if the security interest is perfected, the buyer or lessee knows of its existence, and the certificate was not executed to the buyer or lessee.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>19, 20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 75 to 110.

### **§ 1111.20. Effect of incorrect information or omission**

A. Except as otherwise provided in this section, a certificate of title, certificate of origin, security interest statement, or other record otherwise satisfying the requirements of this act is effective even if it contains incorrect information or required information is omitted.

B. In addition to any rights provided under 47 CNCA § 1111.18 or 1111.19, if a certificate of title, certificate of origin, security interest statement, or other record is seriously misleading because it contains incorrect information or omits required information, a purchaser of the vehicle covered by the record takes free of any claim or interest the validity of which is dependent on the correct information or omitted information, which would have been contained in the record if the correct or omitted information had been provided, to the extent that the purchaser gives value in reasonable reliance on the incorrect information or the absence of the omitted information.

C. Except as otherwise provided in subsection (D) of this section or in 47 CNCA § 1111.24(C), a description of the vehicle covered by a certificate of title, certificate of origin, security interest statement, or other record

otherwise satisfying the requirements of this act is sufficient, and not seriously misleading, even if the description and vehicle identification number are not specific and accurate, if the information, including the vehicle identification number, reasonably identifies the vehicle.

D. With respect to a security interest or other interest indicated in the files of the CNTC and not indicated on a written certificate of title, if a search of the files of the CNTC using the correct vehicle identification number, name of the debtor, or other required information, using the CNTC's standard search logic, if any, would disclose the security interest or other interest, a failure to indicate the information specifically or accurately is not seriously misleading.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.21. Transfer of ownership by operation of law

A. In this section:

1. "By operation of law" means pursuant to a law or judicial order affecting ownership of a vehicle:

a. on account of death, divorce, merger, consolidation, dissolution, or bankruptcy;

b. through the exercise of the rights of a lien creditor or a person with a common law or statutory lien or other nonconsensual lien; or

c. through other legal process.

2. "Transfer-by-law statement" means a record signed by a transferee containing:

a. a statement that, by operation of law, the transferee has acquired or has the right to acquire the ownership of the owner of record;

b. the name and mailing address of the owner of record and the transferee and any other information required by 47 CNCA § 1111.8(A);

c. documentation sufficient to establish the transferee's interest or right to acquire the ownership of the owner of record; and

d. a statement:

i. that the certificate of title is an electronic certificate of title;

ii. that the transferee does not have possession of the written certificate of title created in the name of the owner of record; or

iii. that the transferee is delivering the written certificate of title to the CNTC with the transfer-by-law statement.

B. If a transfer-by-law statement is delivered to the CNTC with the fee and taxes and documentation satisfactory to the CNTC as to the transferee's ownership interest or right to acquire the ownership of the owner of record, unless the transfer-by-law statement is rejected by the CNTC for a reason set forth in 47 CNCA § 1111.9, the CNTC shall:

1. accept receipt of the transfer-by-law statement;
2. promptly send notice to the owner of record and to all persons indicated in the files of the CNTC as having a security interest in the vehicle that a transfer-by-law statement has been received by the CNTC;
3. amend its records to reflect the transfer;
4. cancel the certificate of title created in the name of the owner of record listed in the transfer-by-law statement, whether or not the certificate has been delivered to the CNTC;
5. create a new certificate of title pursuant to 47 CNCA § 1111.9, indicating the transferee as owner of record; and
6. deliver the new certificate of title pursuant to 47 CNCA § 1111.19.

C. This section does not affect the rights and obligations of a secured party in the enforcement of a security interest under Uniform Commercial Code Article 9.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>19.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 75 to 95.

### **§ 1111.22. Application for transfer of ownership or termination of security interest statement without certificate of title or certificate of origin**

A. The CNTC shall create a certificate of title upon receiving an application that includes a transfer of ownership or a direction to terminate a security interest statement but is not accompanied by submission of a signed certificate of title or certificate of origin only if:

1. all other requirements under 47 CNCA §§ 1111.9 and 1111.10 are met;
  2. the applicant has provided an affidavit stating facts that indicate the applicant is entitled to a transfer of ownership or termination of the effectiveness of a security interest statement:
  3. at least forty-five (45) days before the CNTC creates the certificate of title, notice of the application was sent to all persons having an interest in the vehicle as indicated in the files of the CNTC, and no objection from any of these persons has been received by the CNTC; and
  4. the applicant presents other documentation required by the CNTC to evidence the applicant's ownership or right to termination of the security interest statement, and there is no credible information available to the CNTC indicating theft, fraud, or any undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vehicle.
- B. Unless the value of the vehicle is less than One Thousand Dollars (\$1,000.00), the CNTC may require an applicant under subsection (A) to post a bond or provide an equivalent source of indemnity or security, in a form prescribed by the CNTC, providing for indemnity of any owner, purchaser, or other claimant, for any expense, loss, delay, or damage, including reasonable attorneys' fees but not consequential damages, resulting from creation of a certificate of title or termination of a security interest statement. The bond or other source of indemnity may not exceed twice the value of the vehicle as determined by the CNTC.
- C. If the CNTC has not received a claim for indemnity within one (1) year after creation of the certificate of title under subsection (A) of this section, the CNTC shall release any required bond, indemnity, or other security.
- D. In lieu of the requirements of subsection (B) of this section, the CNTC may include in the certificate of title created under subsection (A) of this section an indication that the certificate of title was created without submission of a signed certificate of title or termination statement. If no credible information indicating theft, fraud, or any undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vehicle has been received by the CNTC within one (1) year after creation of the certificate of title, upon a request in a form and manner specified by the CNTC, the CNTC shall remove the indication from the certificate of title.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>19, 20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 75 to 110.

### **§ 1111.23. Replacement certificates of title**

A. If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise becomes unavailable or illegible, the secured party of record or, if there is no secured party indicated in the files of the CNTC, the owner of record may make application for and obtain a replacement certificate of title in the name of the owner

of record by furnishing information satisfactory to the CNTC in accordance with this section.

B. An application for a replacement certificate of title must be submitted in a record signed by the applicant and, except as otherwise permitted by the CNTC, must comply with 47 CNCA § 1111.8.

C. The existing certificate of title must be submitted to the CNTC with the application for a replacement certificate of title, unless it has been lost, stolen, destroyed, or is otherwise unavailable.

D. A replacement certificate of title created by the CNTC must comply with 47 CNCA § 1111.10 and conspicuously state that it is a replacement certificate of title.

E. If a person receiving a replacement certificate of title subsequently obtains possession of the original certificate, the person shall promptly destroy the original certificate.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### **§ 1111.24. Effectiveness of security interest statement**

A. A security interest statement sufficient under subsection (B) of this section is effective upon receipt by the CNTC and tender of the applicable fee. An effective security interest statement is an application for a certificate of title for purposes of 47 CNCA § 1111.4 and Uniform Commercial Code Article 9 Section 9-303.

B. A security interest statement is sufficient if it includes the name of a debtor, the name of a secured party or a representative of a secured party, and a description of the vehicle, and one of the following conditions is met:

1. the debtor has signed a security agreement that provides a description of the vehicle;
2. the vehicle is in the possession of the secured party pursuant to Uniform Commercial Code Section 9-313 or pursuant to the debtor's agreement; or
3. the debtor has otherwise authorized the security interest statement in a signed record.

C. A security interest statement is not received if the CNTC rejects the statement under subsection (E) of this section. The CNTC may reject a security interest statement only under subsection (E) of this section and only if:

1. the record is not delivered by a means authorized by the CNTC;
2. an amount equal to or greater than the required filing fee is not tendered;

3. the record does not include the name and mailing address of a debtor and a secured party or a representative of a secured party; or

4. the record does not contain the correct vehicle identification number.

D. The CNTC shall maintain a file showing the date of receipt of each security interest statement that is not rejected and make this information available on request.

E. To reject a security interest statement, the CNTC shall notify the person that delivered the statement of the rejection, the reasons for the rejection, and the date the statement would have been received had the CNTC not rejected it. The CNTC shall send the notice not later than midnight of the second business day after the business day on which the security interest statement was delivered to the CNTC. If the CNTC does not send proper notice of rejection of a security interest statement by midnight of the second business day after the business day on which the statement was delivered to the CNTC, that is sufficient under subsection (B) of this section, the security interest statement is received as of the business day on which the statement was delivered to the CNTC.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Oklahoma Statutes

Priority of security interests in fixtures and crops, see 12A O.S. § 1-9-334.

Procedure if security agreement covers real property or fixtures, see 12A O.S. § 1-9-604.

When security interest or agricultural lien is perfected; continuity of perfection, see 12A O.S. § 1-9-308.

### Library References

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### § 1111.25. Perfection of security interest

A. Except as otherwise provided in subsections (E) and (F) of this section, a security interest in a vehicle may be perfected only by receipt of a security interest statement that is effective under 47 CNCA § 1111.24. If a security interest statement is effective under 47 CNCA § 1111.24, the security interest represented by the security interest statement is perfected upon the later to occur of receipt of the security interest statement or attachment of the security interest pursuant to Uniform Commercial Code Section 9-203.

B. The CNTC may create a certificate of title naming as owner a lessor, consignor, bailor, or secured party and may treat the person as the owner for purposes of carrying out the duties of the CNTC under this act. If the interest of a person named as owner is a security interest, the certificate of title naming the person as owner

perfects the security interest but is not of itself a factor in determining whether the interest is a security interest.

C. The CNTC may reject a security interest statement sufficient under 47 CNCA § 1111.24(B) only for a reason set forth in 47 CNCA § 1111.24(C) and in the manner set forth in 47 CNCA § 1111.24(E). Rejection for any other reason or in any other manner is ineffective and the security interest statement is received as of the business day on which the statement was delivered to the CNTC. A security interest statement that is sufficient under 47 CNCA § 1111.24(B) and is not rejected under 47 CNCA § 1111.24(C) is received as of the business day on which the statement was delivered to the CNTC, and if effective under 47 CNCA § 1111.24(A) constitutes perfection under subsection (A), unless it is rejected pursuant to 47 CNCA § 1111.24(E). A failure of the CNTC to index a security interest statement correctly or to indicate the security interest on the certificate of title does not affect the receipt or effectiveness of the security interest statement.

D. A secured party may transfer its rights as secured party under this act. An otherwise valid transfer of a security interest is effective between the parties to the transfer whether or not it is reflected in the files of the CNTC or indicated on the certificate of title. A transfer of a security interest vests in the transferee the rights of the secured party under this act and the Uniform Commercial Code. Perfection remains effective even if the transfer and the transferee of the security interest are not indicated in the files of the CNTC or on the certificate of title. However, a purchaser of the vehicle that obtains a release from a secured party indicated in the files of the CNTC or on the certificate of title takes free of that security interest and also free of the rights of a transferee of that security interest if the transfer is not indicated in the files of the CNTC or on the certificate.

E. A security interest created by a person in the business of selling or leasing vehicles is not subject to this section during any period in which the collateral is inventory held for sale or lease or is leased by the person.

F. A secured party may perfect a security interest by taking possession of a vehicle only as provided in Uniform Commercial Code Section 9-313(b) and 9-316(d).

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **Oklahoma Statutes**

Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites, see 12A O.S. § 1-9-203.

General effectiveness of security agreement, see 12A O.S. § 1-9-201.

Priority of security interests in fixtures and crops, see 12A O.S. § 1-9-334.

Priority subject to subordination, see 12A O.S. § 1-9-339.

Procedure if security agreement covers real property or fixtures, see 12A O.S. § 1-9-604.

### **Library References**

Automobiles <KEY>20.

Secured Transactions <KEY>86, 87.

Westlaw Topic Nos. 48A, 349A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

C.J.S. Secured Transactions §§ 58, 60 to 62, 70.

### **§ 1111.26. Termination statement**

A. A secured party indicated in the files of the CNTC as having a security interest in a vehicle shall deliver to the CNTC a signed termination statement if:

1. there is no obligation secured by the vehicle covered by the security interest and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vehicle; or
2. the debtor did not authorize the filing of the security interest statement.

B. A secured party indicated in the files of the CNTC shall deliver the signed termination statement to the debtor or the CNTC upon the earlier of:

1. twenty (20) days after there is no obligation secured by the vehicle covered by the security interest statement and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vehicle; or
2. ten (10) days after the secured party receives a signed demand from the debtor and there is no obligation secured by the vehicle and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vehicle.

C. If a written certificate of title has been created and delivered to the secured party and a termination statement is required under subsection (A) of this section, the secured party shall deliver the written certificate of title to the debtor or the CNTC with the termination statement, within the time provided in subsection (B) of this section. If the written certificate is lost, stolen, mutilated, or destroyed or is otherwise unavailable or illegible, the secured party shall deliver with the termination statement, within the time provided in subsection (B) of this section, an application for a replacement certificate of title meeting the requirements of 47 CNCA § 1111.23.

D. Upon the delivery of a termination statement to the CNTC pursuant to this section, the security interest statement and any notation of the security interest on the certificate of title to which the termination statement relates becomes ineffective.

E. Only a secured party whose interest is required to be terminated is required to or may file a termination statement under this act.

F. A secured party is liable for damages in the amount of any loss caused by not complying with this section and for the reasonable cost of an application for a certificate of title under 47 CNCA §§ 1111.9 and 1111.22.

G. Upon termination of the effectiveness of a security interest statement under this section, the CNTC shall reflect in its files the termination of the security interest, and that the subsequent secured party reflected in the files of the CNTC, if any, is the secured party of record. If a written certificate of title has been created indicating that the security interest has been terminated, the CNTC shall cancel that certificate of title, create a new certificate of title under 47 CNCA §§ 1111.10 and 1111.11, and deliver the new certificate of title in

accordance with 47 CNCA § 1111.15.

### History

**Source.** LA 43-04, eff. December 15, 2004.

### Library References

Secured Transactions <KEY>206.

Westlaw Topic No. 349A.

### § 1111.27. Uniform security interest statement

See pdf of Uniform Security Interest Statement sample in this folder

### History

**Source.** LA 43-04, eff. December 15, 2004.

### § 1111.28. Duties and operation of filing office

A. The CNTC shall maintain a file of the information provided in a security interest statement received by the CNTC under 47 CNCA § 1111.24 for a least one (1) year after termination of the security interest statement under 47 CNCA § 1111.26. The information must be accessible by the vehicle identification number for the vehicle and any other indexing methods as provided by the CNTC.

B. If a person that files a record with the CNTC, or submits information that is accepted by the CNTC, requests an acknowledgment of the filing or submission, the CNTC shall send to the person an acknowledgment showing the vehicle identification number of the vehicle to which the record or submission relates, the information in the filed record or submission, and the date and time the record was received or the submission accepted. A request under this section must contain the vehicle identification number and be delivered by means authorized by the CNTC.

C. The CNTC shall send or otherwise make available in a record the following information to any person that requests it:

1. whether there is on file on a date and time specified by the CNTC, but not a date earlier than three (3) business days before the CNTC received the request, any certificate of title and security interest statement that:

a. covers a vehicle identified by a vehicle identification number designated in the request; and

b. has not been canceled or terminated;

2. the effective date of the security interest statement; and

3. the name of the owner of record and all security interest statements indicated in the files of the CNTC that are not subject to a termination statement under 47 CNCA § 1111.26.

D. In responding to a request under this section, the CNTC may communicate the requested information in any medium. However, if requested, the CNTC shall send the requested information in a record that is admissible in evidence in the courts of this jurisdiction without extrinsic evidence of its authenticity.

E. The CNTC shall comply with the requirements of this section at the time and in the manner prescribed by the rules of the CNTC but shall comply with requests under this section not later than two (2) business days after the CNTC receives the request. A reasonable fee may be imposed for this service.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

### **§ 1111.29. Title brand**

A. A "salvage title" shall be issued to any vehicle ten (10) model years and newer which has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value determined as of its condition immediately prior to the damage.

B. A "rebuilt title" shall be issued on any salvage vehicle, which has been rebuilt and inspected for the purpose of registration and title with Cherokee Nation, or another jurisdiction.

### **History**

**Source.** LA 34-01, eff. September 12, 2001.

**Amended.** LA 43-04, eff. December 15, 2004.

### **Library References**

Automobiles <KEY>20.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 80 to 85, 88 to 110.

### **§ 1111.30. Uniformity of application and construction**

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among jurisdictions that enact it.

### **History**

**Source.** LA 43-04, eff. December 15, 2004.

## **CHAPTER 79**

### **MOTOR VEHICLE CHOP SHOP, STOLEN AND ALTERED PROPERTY ACT**

## § 1501. Short title

This act shall be known and may be cited as the "Motor Vehicle Chop Shop, Stolen and Altered Property Act".

### History

Source. LA 2-91, eff. February 9, 1991.

## § 1502. Definitions

As used in the Motor Vehicle Chop Shop, Stolen and Altered Property Act:

1. **"Chop shop"** means any building, lot or other premise where one or more persons are or have been knowingly engaged in altering, destroying, disassembling, dismantling, reassembling, or knowingly storing any motor vehicle, or motor vehicle part known to be illegally obtained by theft, fraud or conspiracy to defraud, in order to either:

a. Alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number of such motor vehicle or motor vehicle part, in order to misrepresent the identity of such motor vehicle part, or to prevent the identification of such motor vehicle or motor vehicle part; or

b. Sell or dispose of such motor vehicle or motor vehicle part.

2. **"Motor vehicle"** means and includes every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, which is self-propelled or which may be connected to and towed by a self-propelled device, and also includes any and all other land-based devices which are self-propelled but which are not designed for use upon a highway, including but not limited to, farm machinery and construction equipment.

3. **"Person"** means and includes a natural person, company, corporation, unincorporated association, partnership, professional corporation, and any other legal entity.

4. **"Unidentifiable"** means that the uniqueness of a motor vehicle or motor vehicle part cannot be established by either expert law enforcement investigative personnel specially trained and experienced in motor vehicle theft investigative procedures and motor vehicle identification examination techniques, or by expert employees of not-for-profit motor vehicle theft prevention agencies specially trained and experienced in motor vehicle theft investigation procedures and motor vehicle identification examination techniques.

5. **"Vehicle identification number"** means a number or numbers, a letter or letters, a character or characters, a datum or data, a derivative or derivatives, or a combination or combinations thereof, used by the manufacturer or the Oklahoma Tax Commission for the purpose of uniquely identifying a motor vehicle or motor vehicle part. The term shall include, but not be limited to, a number or numbers, a letter or letters, a character or characters, a datum or data, a derivative or derivatives, or a combination or combinations thereof.

### History

Source. LA 2-91, eff. February 9, 1991.

## § 1503. Ownership and operation of chop shop-Alteration of vehicle identification number-Purchase or

**sale of parts from altered vehicle-Exceptions-Attempt-Conspiracy-Solicitation-Aiding and abetting-Accessory after fact-Penalties-Sentence-Restitution**

A. Any person who knowingly and with intent that a violation of this section be committed:

1. owns, operates, or conducts a chop shop;
2. transports any motor vehicle or motor vehicle part to or from a location knowing it to be a chop shop; or
3. sells, transfers, purchases, or receives any motor vehicle or motor vehicle part either to or from a location knowing it to be a chop shop, upon conviction, is guilty of a crime.

B. Any person who knowingly alters, counterfeits defaces, destroys, disguises, falsifies, forges, obliterates, or knowingly removes a vehicle identification number with the intent to misrepresent the identity or prevent the identification of a motor vehicle or motor vehicle part, upon conviction is guilty of a crime, punishable by imprisonment for not more than one (1) year, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or both such imprisonment and fine.

C. 1. Any person who buys, disposes, sells, transfers, or possesses a motor vehicle or motor vehicle part, with knowledge that the vehicle identification number of the motor vehicle or motor vehicle part has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed, upon conviction is guilty of a crime.

2. The provisions of paragraph 1 of this subsection shall not apply to a motor vehicle scrap processor who, in the normal legal course of business and in good faith, processes a motor vehicle or motor vehicle part by crushing, compacting, or other similar methods, provided that any vehicle identification number is not removed from the motor vehicle or motor vehicle part prior to or during any such processing.

3. The provisions of paragraph 1 of this subsection shall not apply to any owner or authorized possessor of a motor vehicle or motor vehicle part which has been recovered by law enforcement authorities after having been stolen or where the condition of the vehicle identification number of the motor vehicle or motor vehicle part is known to or has been reported to law enforcement authorities. It shall be presumed that law enforcement authorities have knowledge of all vehicle identification numbers on a motor vehicle or motor vehicle part which are altered, counterfeited, defaced, disguised, falsified, forged, obliterated, or removed, when law enforcement authorities deliver or return the motor vehicle or motor vehicle part to its owner or authorized possessor after it has been recovered by law enforcement authorities after having been reported stolen.

D. A person commits an attempt when, with intent to commit a violation proscribed by subsection (A), (B), or (C) of this section the person does any act which constitutes a substantial step toward the commission of the violation proscribed by subsection (A), (B) or (C) of this section, and upon conviction is guilty of a crime.

E. A person commits conspiracy when, with an intent that a violation proscribed by subsection (A), (B) or (C) of this section be committed, the person agrees with another to the commission of the violation proscribed by subsections (A), (B) or (C) of this section, and upon conviction is guilty of a crime. No person may be convicted of conspiracy under this section unless an act in furtherance of such agreement is alleged and proved to have been committed by that person or a co-conspirator.

F. A person commits solicitation when, with intent that a violation proscribed by subsection (A), (B) or (C) of this section be committed, the person commands, encourages, or requests another to commit the violation

proscribed by subsection (A), (B) or (C) of this section, and upon conviction is guilty of a crime.

G. A person commits aiding and abetting when, either before or during the commission of a violation proscribed by subsection (A), (B) or (C) of this section, with the intent to promote or facilitate such commission of the violation proscribed by subsection (A), (B) or (C) of this section, and upon conviction is guilty of a crime.

H. A person is an accessory after the fact who maintains, assists, or gives any other aid to an offender while knowing or having reasonable grounds to believe the offender to have committed a violation under subsection (A), (B), (C), D, E, F or G of this section, and upon conviction is guilty of a crime.

I. No prosecution shall be brought, and no person shall be convicted, of any violation under this section, where acts of the person, otherwise constituting a violation were done in good faith in order to comply with the laws or regulations of any state or territory of the United States, or of the federal government of the United States.

J. 1. In addition to any other punishment, a person who violates this section, shall be ordered to make restitution to the lawful owner or owners of the stolen motor vehicle or vehicles or the stolen motor vehicle part or parts, or to the owner's insurer to the extent that the owner has been compensated by the insurer, and to any other person for any financial loss sustained as a result of a violation of this section.

Financial loss shall include, but not be limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs and claims payments. Lawful owner shall include an innocent bona fide purchaser for value of a stolen motor vehicle or stolen motor vehicle part who does not know that the motor vehicle or part is stolen; or an insurer to the extent that such insurer has compensated a bona fide purchaser for value.

2. The Court shall determine the extent and method of restitution. In an extraordinary case, the Court may determine that the best interests of the victim and justice would not be served by ordering restitution. In any such case, the Court shall make and enter specific written findings on the record concerning the extraordinary circumstances presented which militated against restitution.

### **History**

**Source.** LA 2-91, eff. February 9, 1991.

### **Library References**

Automobiles <KEY>339, 340.

Indians <KEY>626.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1715 to 1727, 1745 to 1746.

APPENDIX A

CHEROKEE NATION BOND SCHEDULE

Appendix A.

Cherokee Nation Bond Schedule

OFFENSE COST	MIN	BOND	Plus	\$60.00	COURT
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**Speeding**

One to Ten miles per hour Over Limit § 11-801			\$210.90	47	CNCA
Eleven to Fifteen miles per hour Over Limit 801			\$248.90	47	CNCA § 11-
Sixteen to Twenty miles per hour Over Limit § 11-801			\$263.90	47	CNCA
Twenty-one to Twenty-five miles per hour Over Limit 801			\$303.90	47	CNCA § 11-
Twenty-six to Thirty miles per hour Over Limit 801			\$363.90	47	CNCA § 11-
Thirty-one to Thirty-five miles per hour Over Limit	\$383.90			47	CNCA § 11-801
Thirty-six miles per hour or more Over Limit § 11-801			\$433.90	47	CNCA

**Speeding in a Construction or Maintenance Zone**

One to Ten miles per hour Over Limit 806;		\$248.90		47	CNCA § 11-
Eleven to Fifteen miles per hour Over Limit		\$268.90		47	CNCA § 11-806;
Sixteen to Twenty miles per hour Over Limit		\$298.90		47	CNCA § 11-806;
Twenty-one to Twenty-five miles per hour Over Limit		\$378.90		47	CNCA § 11-806;
Twenty-six to thirty miles per hour Over Limit		\$498.90		47	CNCA § 11-806;
Thirty-one to thirty-five miles per hour Over Limit		\$536.90		47	CNCA § 11-806;
Thirty-six miles or more miles per hour Over Limit		\$638.90		47	CNCA § 11-806;
Operating a Motor Vehicle in a Manner Not Reasonable and Proper		\$278.90		47	CNCA § 11-801
Reckless Driving (First Offense Only.)		\$477.40		47	CNCA § 11-901
Reckless Driving (Second or Subsequent Offense)		\$527.40		47	CNCA § 11-901
Failure to Obey a Lawful Traffic Control (Sign) (Signal)(Device)	\$233.90			47	CNCA § 11-201
Impeding the Normal and Reasonable Flow of Traffic	\$233.90			47	CNCA § 11-804.A

**Improper Passing**

1. Failure to Give Way to Right when being passed	\$233.90	47 CNCA	§ 11-303.a
2. Improper Passing on the Right	\$233.90	47 CNCA	§ 11-304.b
3. Passing Without Sufficient Clearance	\$233.90	47 CNCA	§ 11-305

**Driving Left of Center**

1. Unauthorized Driving Left of Center on 306.a-1 (Grades) (Curves) (View Obstructed)	\$233.90	47 CNCA	§ 11-
2. Unauthorized Driving Left of Center 306.a-2 within 100 of (Intersection) (Railroad Crossing)	\$233.90	47 CNCA	§ 11-
3. Unauthorized Driving Left of Center within 100' of any (Tunnel) (Bridge) (Viaduct) when view is obstructed	\$233.90	47 CNCA	§ 11-306.a-3
4. On Left Side of Road in a Marked Zone	\$233.90	47 CNCA	§ 11-307.b
5. Unauthorized Driving Left of Center on Divided Four-Lane Roadway	\$233.90	47 CNCA	§ 11-301.c

Driving Wrong Way on One-way Road	\$233.90	47 CNCA	§ 11-308.b
Improperly Crossing Center Dividing Section	\$233.90	47 CNCA	§ 11-311
Improperly Driving (Onto) (Off) Controlled-access Roadway	\$233.90	47 CNCA	§ 11-312
Improper Movement from a Direct Course (To enter private drive) (Driveway)	\$233.90	47 CNCA	§ 11-604.a
Failure to Signal Intention to Turn Right or Left	\$233.90	47 CNCA	§ 11-604.b
Failure to Stop for a Stop Sign	\$233.90	47 CNCA	§ 11-403.b
Changing Lanes Unsafely	\$233.90	47 CNCA	§ 11-309
Failure to Stop for a School Bus (Loading) (Unloading) Children	\$328.90	47 CNCA	§ 11-705.a
Failure to Wear Safety Belt	\$80.00	47 CNCA	§ 12-417
Failure to Use Child Passenger Restraint System	\$256.90	47 CNCA	§ 11-1112
Depositing, Dumping or Throwing Destructive or Injurious Material on Public Property	\$418.40	21 CNCA	§ 1761.1
Improper Negotiation of a Railroad-Highway Grade Crossing by a Commercial Motor Vehicle	\$233.90	47 CNCA	§ 11-1115
Failure to Stop/Improper Stop at a Railroad Grade Crossing	\$233.90	47 CNCA	§ 11-701
Throwing, Dropping, Depositing or Placing Litter (Including Lighted Substances) on Highway, Roadway or Public Property	\$228.40	21 CNCA	§ 1753
Allowing a Passenger to Ride Outside the Passenger Compartment of the vehicle	\$85.00	47 CNCA	§ 11-1114
Operating a Motor Vehicle with an Improper	\$233.90	68 CNCA	§ 11-1114

Brake System			
Operating a Motor Vehicle Without a Valid (Operator's) (Chauffeur's) License Violation of License Restriction	\$278.90	68 CNCA	§ 1263
Transporting Open Container in violation of 21 CNCA § 1220	\$338.90	21 CNCA	§ 1220
Unlawfully Transporting Open Container of Alcoholic Beverage in a Vehicle (M) Drunk in a Public Place (Name Place)	\$268.90	21 CNCA	§ 1220
Failure to Carry Security Verification Form	\$228.40	37 CNCA	§ 8
Failure to Pay All Taxes Due State or Nation	\$223.90	68 CNCA	§ 1263
Operating a Vehicle Without Current License Plates (Decal)	\$223.90	68 CNCA	§ 1258
Operating a Motorcycle (Without) (Improper) (Windshield) (Goggles) (Face Shields)	\$223.90	47 CNCA	§ 1261
	\$223.90	47 CNCA	§ 40-105

**Overload, Any Axle or Gross Weight**

From 700 up to and including 2,000 Pounds	\$268.90	47 O.S.	§ 14-109.A
From 2,001 up to and including 3,000 Pounds	\$318.90	47 O.S.	§ 14-109.A
From 3,001 up to and including 4,000 Pounds	\$368.90	47 O.S.	§ 14-109.A
From 4,001 up to and including 5,000 Pounds	\$418.90	47 O.S.	§ 14-109.A
From 5,001 up to and including 6,000 Pounds	\$468.90	47 O.S.	§ 14-109.A
From 6,001 up to and including 7,000 Pounds	\$518.90	47 O.S.	§ 14-109.A
From 7,001 up to and including 8,000 Pounds	\$568.90	47 O.S.	§ 14-109.A
From 8,001 up to and including 9,000 Pounds	\$618.90	47 O.S.	§ 14-109.A
From 9,001 up to and including 10,000 Pounds	\$668.90	47 O.S.	§ 14-109.A
Over 10,000 Pounds	\$688.90	47 O.S.	§ 14-109.A

Violating Special Permit, Exceeding Authorized Permit Weight in Accordance with the Bond Schedule provided for in this section for Overload. Plus an Additional One Hundred Dollars (\$100.00).

**History**

Source. LA 25-06, eff. October 19, 2006.