

"AN ACT TO AMEND SUBSECTION (a) OF SECTION 1 OF ACT 106 OF 1969, AS AMENDED [ARK. STAT. 75-1045(a)], TO MORE ADEQUATELY AND CLEARLY DEFINE THE CIRCUMSTANCES UNDER WHICH A PERSON WHO OPERATES OR IS IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE SHALL BE DEEMED TO HAVE GIVEN CONSENT TO A CHEMICAL TEST TO DETERMINE THE AMOUNT OF ALCOHOL OR DRUGS IN THE PERSON'S BLOOD; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Subsection (a) of Section 1 of Act 106 of 1969, as amended, the same being Arkansas Statute 75-1045(a), is hereby amended to read as follows:

"(a) Any person who operates a motor vehicle or is in actual physical control of a motor vehicle in this State shall be deemed to have given consent, subject to the provisions of subsection (c) of this Section, to a chemical test or tests of his or her blood, breath or urine for the purpose of determining the alcohol or controlled substance content of his or her blood if:

(1) the driver is arrested for any offense arising out of acts alleged to have been committed while the person was driving while intoxicated or driving while there was 0.10% or more of alcohol in the person's blood, or

(2) the person is involved in an accident while operating or in actual physical control of a motor vehicle; or

(3) the person is stopped by a law enforcement officer who has reasonable cause to believe that the person while operating or in actual physical control of a motor vehicle is intoxicated or has 0.10% or more of alcohol in the person's blood.

Such chemical test or tests shall be administered at the direction of a law enforcement officer having reasonable cause to believe the person to have been operating or in actual physical control of a motor vehicle while intoxicated or while there was 0.10% or more of alcohol in the person's blood. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered, and such agency shall be responsible for paying all expenses incurred in conducting such tests. Provided, if the person tested requests that additional tests be made, as authorized in paragraph 3 of subsection (c) of this Section, the cost of such additional tests shall be borne by the person tested. Provided further, if any person shall object to the taking of his blood for a test, as authorized herein, the breath or urine of the person may be used to make the analysis."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. Emergency. It is hereby found and determined by the General Assembly that the present law identifying circumstances under which persons who operate or are in actual physical control of a motor vehicle are deemed to have given consent to chemical tests to determine whether they have been driving while intoxicated does not apply when the driver is involved in a nonfatal accident and is not actually operating the motor vehicle at the time the police arrive and is not arrested as a result of the accident; that the failure to include such circumstance was inadvertent and should be immediately corrected in order to provide for the proper enforcement of our DWI

law; and that this Act will make that correction in the DWI law. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: February 19, 1987

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