

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representatives Steele, Hunton and Rorie**

# **A Bill**

**ACT 298 OF 1993**  
**HOUSE BILL 1244**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE OF 1987, ANNOTATED, TITLE  
9 5, CHAPTER 65, THE OMNIBUS DWI ACT, TO ADD A NEW SECTION  
10 5-65-118 TO PROVIDE FOR THE ADDITIONAL SENTENCING OPTION  
11 OF AN AUTOMOBILE IGNITION INTERLOCK SYSTEM FOR VIOLATIONS  
12 OF THE DWI LAW, TO PRESCRIBE PENALTIES FOR TAMPERING WITH  
13 OR CIRCUMVENTING THE DEVICES, AND TO PROVIDE FOR THE  
14 CERTIFICATION OF INTERLOCK SYSTEM MANUFACTURERS; AND FOR  
15 OTHER PURPOSES."

### **Subtitle**

17 **"AN ACT TO PROVIDE AN ADDITIONAL SENTENCING**  
18 **OPTION OF AN AUTOMOBILE IGNITION INTERLOCK**  
19 **SYSTEM FOR VIOLATIONS OF THE DWI LAW."**

21  
22 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**

23  
24 **SECTION 1. Title 5, Chapter 65, of the Arkansas Code of 1987, Annotated, is hereby**  
25 **amended to add a new Section 5-65-118 to read as follows:**

26 **"5-65-118. Additional penalties - Ignition interlock devices.**

27 **(a) In addition to the other penalties authorized for violations of this act, a court may**  
28 **in its discretion, upon finding a person both financially able to afford an interlock device and**  
29 **also upon a finding of guilt or a plea of guilty or nolo contendere for violating § 5-65-103, order**  
30 **the person to operate only a motor vehicle which is equipped with a functioning ignition**  
31 **interlock device, and this restriction may continue for a period of up to one (1) year after such**  
32 **person\_s license is no longer suspended or restricted under the provisions of § 5-65-104. The**  
33 **court shall establish a specific calibration setting no lower than two-hundredths of one percent**  
34 **(0.02%) nor more than five hundredths of one percent (0.05%) of alcohol in the person\_s**  
35 **blood at which the ignition interlock device will prevent the motor vehicle from being started**  
36 **and the period of time that the person shall be subject to the restriction. For the purpose of**

1 **this section, *\_ignition interlock device\_* means a device which connects a motor vehicle ignition**  
2 **system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if a**  
3 **driver's blood alcohol level exceeds the calibration setting on the device.**

4 **(b) Upon ordering the use of an ignition interlock device, the court shall:**

5 **(1) State on the record the requirement for and the period of use of the device,**  
6 **and so notify the Department of Finance and Administration, Office of Driver Services;**

7 **(2) Direct that the records of the Office of Driver Services reflect:**

8 **(A) That the person may not operate a motor vehicle that is not**  
9 **equipped with an ignition interlock device; and**

10 **(B) Whether the court has expressly permitted the person to operate a**  
11 **motor vehicle without an ignition interlock device under subdivision (g)(2) of this section;**

12 **(3) Direct the Office of Driver Services to attach or imprint a notation on the**  
13 **driver's license of any person restricted under this section stating that the person may operate**  
14 **only a motor vehicle equipped with an ignition interlock device;**

15 **(4) Require proof of the installation of the device and periodic reporting by the**  
16 **person for verification of the proper operation of the device;**

17 **(5) Require the person to have the system monitored for proper use and**  
18 **accuracy by an entity approved by the Arkansas *Department of Health* at least semiannually,**  
19 **or more frequently as the circumstances may require; and**

20 **(6) Require the person to pay the reasonable cost of leasing or buying,**  
21 **monitoring, and maintaining the device, and may establish a payment schedule therefor.**

22 **(c) A person sentenced under this section to operate only a motor vehicle that is**  
23 **equipped with an ignition interlock device may not solicit or have another person start or**  
24 **attempt to start a motor vehicle equipped with such a device. Except as provided in subsection**  
25 **(g) of this section, a violation of this subsection is a Class A misdemeanor.**

26 **(d) A person may not start or attempt to start a motor vehicle equipped with an ignition**  
27 **interlock device for the purpose of providing an operable motor vehicle to a person who is**  
28 **sentenced under this section to operate only a motor vehicle that is equipped with an ignition**  
29 **interlock device. Except as provided in subsection (g) of this section, a violation of this**  
30 **subsection is a Class A misdemeanor.**

31 **(e) A person may not tamper with, or in any way attempt to circumvent, the operation**  
32 **of an ignition interlock device that has been installed in a motor vehicle. Except as provided in**  
33 **subsection (g) of this section, a violation of this subsection is a Class A misdemeanor.**

34 **(f) A person may not knowingly provide a motor vehicle not equipped with a**  
35 **functioning ignition interlock device to another person who the provider of the vehicle knows**

1 or should know was sentenced to operate only a motor vehicle equipped with an ignition  
2 interlock device. Except as provided in subsection (j) of this section, a violation of this  
3 subsection is a Class A misdemeanor.

4 (g) Any person found to have violated subsections (c)-(f) of this section is guilty of a  
5 Class A misdemeanor; provided, however, that penalty shall not apply if;

6 (1) The starting of a motor vehicle, or the request to start a motor vehicle,  
7 equipped with an ignition interlock device is done for the purpose of safety or mechanical  
8 repair of the device or the vehicle and the person subject to the court order does not operate  
9 the vehicle; or

10 (2) The court finds that a person is required to operate a motor vehicle in the  
11 course and scope of the person\_s employment and if the vehicle is owned by the employer, the  
12 person may operate that vehicle during regular working hours for the purposes of his  
13 employment without installation of an ignition interlock device if the employer has been  
14 notified of such driving privilege restriction and if proof of that notification is with the vehicle.  
15 This employment exemption shall not apply, however, if the business entity that owns the  
16 vehicle is owned or controlled by the person who is prohibited from operating a motor vehicle  
17 not equipped with an ignition interlock device.

18 (h) The Arkansas *Department of Health* shall certify the ignition interlock systems for  
19 use in this state, shall approve the entities which install and monitor the systems, and shall  
20 adopt rules and regulations for the certification of the ignition interlock systems and system  
21 installation. The regulations shall require the ignition interlock systems to, as a minimum, not  
22 impede the safe operation of the vehicle, minimize the opportunities to be bypassed, work  
23 accurately and reliably in unsupervised environments, measure, properly and accurately, the  
24 person\_s blood alcohol levels, minimize the inconvenience to a sober user, and be  
25 manufactured by a entity who is responsible for installation, user training, servicing and  
26 maintenance of the systems, and who is capable of providing monitoring reports to the courts.  
27 The Arkansas *Department of Health* shall develop a warning label to be affixed to all ignition  
28 interlock systems used in the state to warn any person of the possible penalties for tampering  
29 with or attempting to circumvent the interlock system. The Arkansas *Department of Health*  
30 shall publish and update a list of certified ignition interlock manufacturers and of approved  
31 ignition interlock system installers and it shall be provided periodically to each municipal and  
32 circuit court in the state."

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34 SECTION 2. All provisions of this act of general and permanent nature are  
35 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision

1 **Commission shall incorporate the same in the Code.**

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3 **SECTION 3. If any provisions of this act or the application thereof to any person or**  
4 **circumstance is held invalid, the invalidity shall not affect other provisions or applications of**  
5 **the act which can be given effect without the invalid provisions or application, and to this end**  
6 **the provisions of this act are declared to be severable.**

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8 **SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.**

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*/s/Railey A. Steele, et al*

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**APPROVED: 03/01/93**

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