

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1768 of the Regular Session

As Engrossed: H3/2/05 H3/4/05 S3/29/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HOUSE BILL 2041

4
5 By: Representative Childers
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8 **For An Act To Be Entitled**

9 AN ACT TO REQUIRE COMPLETION OF AN ALCOHOL
10 EDUCATION PROGRAM FOR EACH VIOLATION INVOLVING
11 THE OFFENSE OF DRIVING WHILE INTOXICATED; TO
12 INCREASE THE ALLOWABLE FEE FOR ALCOHOL EDUCATION
13 PROGRAMS; TO AUTHORIZE PROBATION FEES IN CERTAIN
14 CASES; AND FOR OTHER PURPOSES.

15
16 **Subtitle**

17 AN ACT TO REQUIRE COMPLETION OF ALCOHOL
18 EDUCATION PROGRAMS; TO ALLOW AN INCREASE
19 IN PROGRAM FEES; AND TO AUTHORIZE
20 PROBATION FEES IN CERTAIN CASES.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 5-65-104(b), pertaining to alcohol
26 education programs, is amended to read as follows:

27 (b)(1)(A) Any person whose license is suspended or revoked pursuant to
28 *this section shall be required to complete an alcohol education program ~~as~~*
29 ~~*prescribed and approved by the Highway Safety Program*~~ *or an alcohol treatment*
30 *program as approved by the Bureau of Alcohol and Drug Abuse Prevention of the*
31 *Department of ~~Health~~ Human Services, unless the charges are dismissed or the*
32 *person is acquitted of the charges upon which the suspension or revocation is*
33 *based.*

34 (B) If during the period of suspension or revocation under
35 subdivision (b)(1)(A) of this section the person commits additional



1 violations of § 5-65-103, the person shall also be required to complete an
2 approved alcohol education program or alcohol treatment program for each
3 additional violation, unless the additional charges are dismissed or the
4 person is acquitted of the additional charges.

5 (2) A person whose license is suspended or revoked pursuant to
6 this section shall furnish proof of attendance at, and completion of, the
7 alcoholism treatment or education program or programs required under
8 subdivision (b)(1) of this section before reinstatement of his or her
9 suspended or revoked driver's license or shall furnish proof of dismissal or
10 acquittal of the charge on which the suspension or revocation is based.

11 (3) Even if a person has filed a de novo petition for review
12 pursuant to former subsection (c) of this section, the person shall be
13 entitled to reinstatement of driving privileges upon complying with this
14 subsection and shall not be required to postpone reinstatement until the
15 disposition of the de novo review in circuit court has occurred.

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17 SECTION 2. Arkansas Code § 5-65-108 is amended to read as follows:

18 5-65-108. No probation prior to adjudication of guilt.

19 (a) Section 16-93-301 et seq. allows judges of *circuit, district, and*
20 *city and municipal* courts to place on probation first offenders who plead
21 guilty or nolo contendere prior to an adjudication of guilt.

22 (b) Upon successful completion of the probation terms, the judge is
23 allowed to discharge the accused without a court adjudication of guilt and
24 expunge the record.

25 (c)(1) Hereafter, no *circuit, district, or city judge or municipal*
26 *judge* may utilize the provisions of § 16-93-301 et seq. in instances where
27 the defendant is charged with violating § 5-65-103.

28 (2) Notwithstanding the provisions of § 5-4-301, § 5-4-322, or
29 subdivision (c)(1) of this section, in addition to the mandatory penalties
30 required for a violation of § 5-65-103 a circuit, district, or city judge may
31 utilize probationary supervision solely for the purpose of monitoring
32 compliance with his or her orders, and require an offender to pay a
33 reasonable fee in an amount to be established by the judge.

34 SECTION 3. Arkansas Code § 5-65-115 is amended to read as follows:

35 5-65-115. Alcohol treatment or education program – Fee.

36 (a)(1) Any person whose driving privileges are suspended or revoked

1 for violating § 5-65-103 shall be required to complete an alcohol education
2 program ~~as prescribed and approved by the Highway Safety Program or an~~
3 ~~alcoholism treatment program as approved by the Bureau of Alcohol and Drug~~
4 ~~Abuse Prevention of the Department of Health~~ Human Services or programs
5 required under § 5-65-104(b)(1), in addition to other penalties provided by
6 law.

7 (2)(A) The alcoholism education program may collect a program
8 fee of up to ~~seventy five dollars (\$75.00)~~ one hundred twenty-five dollars
9 (\$125) per enrollee to offset program costs.

10 (B)(i) A person ordered to complete an alcoholism
11 education program or alcoholism treatment program under this section may be
12 required to pay, in addition to the costs collected for education or
13 treatment, a fee of up to twenty-five dollars (\$25.00) to offset the
14 additional costs associated with reporting requirements under this
15 subchapter.

16 (ii) The alcoholism education program shall report
17 ~~semiannually to the Highway Safety Program~~ Bureau of Alcohol and Drug Abuse
18 Prevention of the Department of Human Services all revenue derived from this
19 fee.

20 (b)(1) A person whose license is suspended or revoked for violating §
21 5-65-103 shall:

22 (A)(i) Furnish proof of attendance at and completion of
23 the alcoholism treatment or education program or programs required under § 5-
24 65-104(b)(1) before reinstatement of his or her suspended or revoked driver's
25 license; and

26 (ii) Pay any fee for reinstatement required under §
27 5-65-119 or § 5-65-304; or

28 (B) Furnish proof of dismissal or acquittal of the charge
29 on which the suspension or revocation is based.

30 (2) An application for reinstatement shall be made to the Office
31 of Driver Services of the Department of Finance and Administration.

32 (c) Even if a person has filed a de novo petition for review pursuant
33 to § 5-65-402, the person shall be entitled to reinstatement of driving
34 privileges upon complying with this section and shall not be required to
35 postpone reinstatement until the disposition of the de novo review in circuit
36 court has occurred.

1 (d) A person suspended under this act may enroll in an alcohol
2 education program prior to disposition of the offense by the ~~municipal court~~
3 ~~or circuit, district, or city court~~ but shall not be entitled to any refund
4 of fees paid if the charges are dismissed or if the person is acquitted of
5 the charges.

6 (e) Each alcohol education or treatment program shall remit the fees
7 imposed under this section to the Bureau of Alcohol and Drug Abuse Prevention
8 of the Department of Human Services.

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10 SECTION 4. Arkansas Code § 5-65-307 is amended to read as follows:

11 5-65-307. Alcohol and driving education program.

12 (a)(1)(A) Any underage person who has his or her driving privileges
13 suspended, revoked, or denied for violating § 5-65-303 shall be required to
14 complete an alcohol and driving education program for underage drivers as
15 *prescribed and approved by the ~~Highway Safety Program~~ Bureau of Alcohol and*
16 *Drug Abuse Prevention of the Department of Human Services or an alcoholism*
17 *treatment program, or both, in addition to other penalties provided in this*
18 *chapter.*

19 (B) If during the period of suspension or revocation in
20 subdivision (a)(1)(A) of this section the person commits additional
21 violations of § 5-65-303, the person shall also be required to complete an
22 approved alcohol and driving education program or alcoholism treatment
23 program for each additional violation.

24 (2) The ~~Highway Safety Program~~ Bureau of Alcohol and Drug Abuse
25 Prevention of the Department of Human Services shall approve only those
26 *programs in alcohol and driving education which are targeted at the underage*
27 *driving group and are intended to intervene and prevent repeat occurrences of*
28 *driving under the influence or driving while intoxicated.*

29 (3)(A)(i) The alcohol and driving education program may collect
30 a program fee of up to ~~seventy-five dollars (\$75.00)~~ one hundred twenty-five
31 dollars (\$125) per enrollee to offset program costs.

32 (ii) A person ordered to complete an alcohol and
33 driving education program or an alcoholism treatment program under this
34 section may be required to pay, in addition to the costs collected for the
35 program, a fee of up to twenty-five dollars (\$25.00) to offset the additional
36 costs associated with reporting requirements under this subchapter.

1 (B) An approved alcohol and driving education program
2 shall report semiannually to the ~~Highway Safety Program~~ Bureau of Alcohol and
3 Drug Abuse Prevention of the Department of Human Services all revenue derived
4 from these fees.

5 (b) Prior to reinstatement of a driver's license suspended or revoked
6 under this subchapter, the driver shall furnish proof of attendance at and
7 completion of the alcohol and driving education program or programs required
8 under subdivision (a)(1) of this section.

9 (c) ~~The Highway Safety Program~~ Bureau of Alcohol and Drug Abuse
10 Prevention of the Department of Human Services is authorized to promulgate
11 rules and regulations reasonably necessary to carry out the purposes of this
12 section regarding the approval and monitoring of the alcohol and driving
13 education programs.

14 (d)(1)(A) A person whose license is suspended or revoked for violating
15 § 5-65-303 or § 5-65-310 shall:

16 (i)(a) Furnish proof of attendance at and completion
17 of the alcoholism treatment or education program or programs required under
18 subdivision (a)(1) of this section before reinstatement of his or her
19 suspended or revoked driver's license; and

20 (b) Pay any fee for reinstatement required
21 under § 5-65-119 or § 5-65-304; or

22 (ii) Furnish proof of dismissal or acquittal of the
23 charge on which the suspension, or revocation is based.

24 (B) An application for reinstatement shall be made to the
25 Office of Driver Services.

26 (2) Even if a person has filed a de novo petition for review
27 pursuant to § 5-65-402, the person shall be entitled to reinstatement of
28 driving privileges upon complying with this subsection and shall not be
29 required to postpone reinstatement until the disposition of the de novo
30 review in circuit court has occurred.

31 (3)(A) A person suspended under this chapter may enroll in an
32 alcohol education program prior to disposition of the offense by the
33 ~~municipal or circuit, district, or city~~ court but shall not be entitled to
34 any refund of fees paid if the charges are dismissed or if the person is
35 acquitted of the charges.

36 (B) A person who enrolls in an alcohol education program

1 shall not be entitled to any refund of fees paid if the person is
2 *subsequently acquitted.*

3 (e) Each alcohol education or treatment program shall remit the fees
4 imposed under this section to the Bureau of Alcohol and Drug Abuse Prevention
5 of the Department of Human Services.

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7 SECTION 5. Arkansas Code § 5-65-308(a), pertaining to probation in
8 cases involving underage driving under the influence, is amended to read as
9 follows:

10 (a)(1) Section 16-93-301 et seq. allows judges of *circuit, district,*
11 *and city municipal* courts to place on probation first offenders who plead
12 guilty or nolo contendere prior to an adjudication of guilt, and, upon
13 successful completion of probation, the judge may discharge the accused
14 without a court adjudication of guilt and expunge the record.

15 (2)(A) No circuit, district, or city judge ~~or municipal judge~~
16 may utilize the provisions of § 16-93-301 et seq. in instances where an
17 underage person is charged with violating § 5-65-303.

18 (B) Notwithstanding the provisions of § 5-4-301, § 5-4-
19 322, or subdivision (a)(2)(A) of this section, in addition to the mandatory
20 penalties required for a violation of § 5-65-303 a circuit, district, or city
21 judge may utilize probationary supervision solely for the purpose of
22 monitoring compliance with his or her orders, and require an offender to pay
23 a reasonable fee in an amount to be established by the judge.

24 SECTION 6. Arkansas Code § 5-65-402(h), pertaining to reinstatement of
25 administratively suspended driver's licenses, is amended to read as follows:

26 (h)(1)(A) A person whose license is suspended or revoked pursuant to
27 this section shall:

28 (i)(a) Furnish proof of attendance at and completion
29 of the alcoholism treatment or education program or programs required by § 5-
30 65-104(b)(1) or § 5-65-307(a)(1) before reinstatement of his or her suspended
31 or revoked driver's license; and

32 (b) Pay any fee for reinstatement required
33 under § 5-65-119 or § 5-65-304; or

34 (ii) Furnish proof of dismissal or acquittal of the
35 charge on which the suspension or revocation is based.

36 (B) An application for reinstatement shall be made to the

1 Office of Driver Services.

2 (2) Even if a person has filed a de novo petition for review
3 pursuant to subsection (c) of this section, the person shall be entitled to
4 reinstatement of driving privileges upon complying with this subsection and
5 shall not be required to postpone reinstatement until the disposition of the
6 de novo review in circuit court has occurred.

7 (3) A person suspended under this section may enroll in an
8 alcohol education program prior to disposition of the offense by the
9 ~~municipal or circuit, district, or city~~ court but shall not be entitled to
10 any refund of fees paid if the charges are dismissed or if the person is
11 acquitted of the charges.

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13 /s/ Childers
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16 APPROVED: 4/06/2005
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