

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 1994 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/31/05

A Bill

SENATE BILL 984

5 By: Senator Luker
6 By: Representatives D. Johnson, Ledbetter
7

For An Act To Be Entitled

10 THE ARKANSAS CRIMINAL CODE REVISION COMMISSION'S
11 BILL.

Subtitle

14 THE ARKANSAS CRIMINAL CODE REVISION
15 COMMISSION'S BILL.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 1-3-109 is amended to read as follows:

21 1-3-109. Printing of publication cost.

22 (a) All newspapers publishing anything under the provisions of §§ 1-3-
23 101 - 1-3-108 shall, free of charge, print at the head of each of the
24 publications, in type of double the size of the publication itself, the
25 following words: "The cost of this publication to the taxpayers is the sum
26 of _____ dollars."

27 (b) Any newspaper, or proprietor or editor thereof, failing to comply
28 with this section shall be deemed guilty of a ~~misdemeanor~~ violation and upon
29 conviction shall be fined in any sum not less than one hundred dollars (\$100)
30 nor more than five hundred dollars
31 (\$500).
32

33 SECTION 2. Arkansas Code § 2-1-101 is amended to read as follows:

34 2-1-101. Prohibition against center pivot irrigation discharge on
35 interstate.



1 (a) It is unlawful for a person, sole proprietorship, partnership, or
2 corporation that engages in irrigation of any farm or agricultural lands to
3 intentionally permit or cause any center pivot irrigation water to be
4 discharged onto the traveled portion of any interstate or state highway.

5 (b) A first violation of this section shall cause a warning to be
6 issued.

7 (c) Upon conviction of A a second or subsequent offense, the offender
8 shall be ~~punishable~~ guilty of a violation and punished by a fine of not less
9 than one hundred dollars (\$100) nor more than two hundred fifty dollars
10 (\$250).

11 (d) It is an affirmative defense to prosecution under this section
12 that the discharge of center pivot irrigation waters onto an interstate or
13 state highway resulted from winds of such intensity that no mechanical device
14 that is intended to prevent spray from reaching the roadway could have
15 prevented the spraying or that the discharge resulted from excessive rainfall
16 which contributed to flooding of the roadway.

17
18 SECTION 3. Arkansas Code § 2-2-118 is amended to read as follows:

19 2-2-118. Penalties for inducing breach of contract.

20 Any person or any corporation whose officers or employees knowingly
21 induce or attempt to induce any person to breach his marketing or
22 participation contract with an association shall be guilty of a ~~misdemeanor~~
23 violation, and upon conviction shall be subject to a fine of not less than
24 one hundred dollars (\$100) and not more than one thousand dollars (\$1,000)
25 for the offense, and shall be liable to the association aggrieved in a civil
26 suit in the penal sum of five hundred dollars (\$500) for each offense.

27
28 SECTION 4. Arkansas Code § 2-2-420 is amended to read as follows:

29 2-2-420. Penalties for inducing breach of contract.

30 Any person or corporation whose officers or employees knowingly induce
31 or attempt to induce any member or stockholder of an association organized
32 under this subchapter to breach his marketing contract with the association,
33 or who maliciously and knowingly spreads false reports about the finances or
34 management thereof, shall be guilty of a ~~misdemeanor~~ violation and subject to
35 a fine of not less than one hundred dollars (\$100) and not more than one
36 thousand dollars (\$1,000) for the offense and shall be liable to the

1 association aggrieved in a civil suit in the penal sum of five hundred
2 dollars (\$500) for each offense.

3
4 SECTION 5. Arkansas Code § 2-9-111 is amended to read as follows:

5 2-9-111. Penalty.

6 (a)(1) Any seller who fails to file a report, collect assessments, or
7 remit any assessment when due shall pay a penalty not to exceed five percent
8 (5%) of the amount of the assessment that should have been collected or
9 remitted, plus an additional penalty not to exceed one percent (1%) of the
10 amount of the assessment that should have been collected or remitted for each
11 month of delay, or fraction thereof, after the first month the report was
12 required to be filed or the assessment became due.

13 (2) The penalty shall be paid to the Director of the Department
14 of Finance and Administration and shall be disposed of in the same manner as
15 funds derived from the payment of assessments as provided in this chapter.

16 (b) The director shall collect the penalties levied in this section,
17 together with the delinquent assessment, by any or all of the following
18 methods:

19 (1) Voluntary payment; ~~and~~ or

20 (2) Legal proceedings instituted in a court of competent
21 jurisdiction seeking any remedies available including, but not limited to,
22 injunctive relief to enjoin any seller owing the assessment or penalties from
23 engaging in business as a seller of catfish feed until the amount of the
24 assessment due and all penalties are paid.

25 (c) Any person required to pay the assessment provided for in this
26 chapter who refuses to allow full inspection of the premises or any books,
27 records, or other documents relating to the liability of the person for the
28 assessment imposed, or who shall hinder or in any way delay or prevent the
29 inspection, shall be guilty of a ~~misdemeanor~~ violation punishable by a fine
30 not exceeding five hundred dollars (\$500).

31
32 SECTION 6. Arkansas Code § 2-16-102 is amended to read as follows:

33 2-16-102. Date stamped on cotton insecticides - Penalty.

34 (a) Every person, firm, or corporation bagging any commercial cotton
35 insecticide or poison shall stamp on each bag or on a tag attached to each
36 bag the date on which the insecticide or poison was manufactured.

1 (b)(1) Any person, firm, or corporation failing or refusing to comply
2 with the requirements of this section shall be guilty of a ~~misdemeanor~~
3 violation and upon conviction shall be fined in any sum not less than five
4 dollars (\$5.00) nor more than one hundred dollars (\$100).

5 (2) Each bag or other container which is shipped without first
6 having ~~placed~~ the date placed thereon shall be a separate offense.

7
8 SECTION 7. Arkansas Code § 2-16-203 is amended to read as follows:
9 2-16-203. Penalty.

10 (a) Fines. Any person who shall violate any provisions or requirements
11 of this subchapter or the rules and regulations made or of any notice given
12 pursuant thereto or who shall forge, counterfeit, deface, destroy, or
13 wrongfully use any certificate provided for in this subchapter or in the
14 rules and regulations made pursuant thereto shall be deemed guilty of a
15 ~~misdemeanor~~ violation, and upon conviction he or she shall be punished by a
16 fine of not more than one hundred dollars (\$100).

17 (b) Civil Penalties.

18 (1)(A) In a lawful proceeding respecting licensing, as defined
19 in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., in
20 addition to or in lieu of any other lawful disciplinary action, the State
21 Plant Board may assess a civil penalty of not more than one thousand dollars
22 (\$1,000) for each violation of any statute, rule, or order enforceable by the
23 board.

24 (B) In no case shall a single application or drift
25 incident by a pesticide applicator be considered multiple violations based on
26 the number of complaints.

27 (C) In no case shall the failure to meet minimum treating
28 standards, except those which require a termiticide application, be
29 considered a violation and subject to a civil penalty.

30 (2) The board shall by rule establish a schedule designating the
31 minimum and maximum civil penalty which may be assessed under this section
32 for violation of each statute, rule, or order over which it has regulatory
33 control. Authority is vested in the board to promulgate any other regulations
34 necessary to carry out the intent of this section.

35 (3) In the event of nonpayment of any civil penalty lawfully
36 assessed pursuant to subdivision (b)(1) of this section, such a penalty shall

1 be recoverable in the name of the state by the Attorney General in Pulaski
2 County Circuit Court or in the circuit court of the county in which the
3 violation occurred.

4 (4) All sums paid or recovered under this section shall be
5 deposited into the State Treasury. Sums collected under special revenue
6 programs shall be deposited in the Plant Board Fund. Sums collected under
7 general services programs shall be deposited into the State General Services
8 Fund Account.

9 (5) All rules and regulations promulgated pursuant to this
10 section shall be reviewed by the House and Senate Interim Committees on
11 Agriculture, Forestry, and Economic Development or subcommittees thereof.
12

13 SECTION 8. Arkansas Code § 2-16-404 is amended to read as follows:

14 2-16-404. Penalties.

15 (a) Any person who violates any provision of this subchapter or the
16 regulations adopted hereunder shall be guilty of a ~~misdemeanor violation~~ and
17 upon conviction shall be ~~punishable~~ punished for the first offense by a fine
18 of not less than one hundred dollars (\$100) and not more than one thousand
19 dollars (\$1,000) and for the second and any additional offense a fine of not
20 less than five hundred dollars (\$500) and not more than two thousand dollars
21 (\$2,000).

22 (b) Any offense committed more than three (3) years after a previous
23 conviction shall be considered as a first offense.
24

25 SECTION 9. Arkansas Code § 2-16-503 is amended to read as follows:

26 2-16-503. Penalty.

27 (a) Any landowner or any person having control of any land in a
28 Johnson grass control and eradication district who fails or refuses to
29 control or eradicate Johnson grass on his lands shall be guilty of a
30 ~~misdemeanor violation~~ violation.

31 (b)(1) Upon conviction, an offender shall be subject to a fine of not
32 less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) for
33 each violation.

34 (2) Each day a violation shall exist or continue shall
35 constitute a separate offense.
36

1 SECTION 10. Arkansas Code § 2-18-102 is amended to read as follows:
2 2-18-102. Penalty - Revocation of certificate.

3 (a)(1) Any person shall be deemed guilty of a ~~misdemeanor~~ violation
4 who:

5 (A) Falsely advertises or proclaims that seed has been
6 certified by the board; ~~or~~

7 (B) Uses any emblem, label, or language for the purpose of
8 misleading persons into believing that seed has been certified by the board
9 when it has not; ~~or~~

10 (C) Misuses any tag, label, or certificate issued by the
11 board; ~~or~~

12 (D) Obtains or attempts to obtain certification for seed
13 or plants by making false statements or misrepresentations to the board or to
14 the board's inspectors, deputies, or agents; ~~or~~

15 (E) Having received a certificate, violates any of the
16 rules and regulations of the board made pursuant to this chapter; or

17 (F) Violates any agreement made as a condition for
18 receiving a certificate.

19 (2) Upon conviction, an offender shall be punished by a fine of
20 not less than twenty-five dollars (\$25.00) nor more than five hundred dollars
21 (\$500) for each offense.

22 (b)(1) When the person holds a certificate from the board, the
23 certificate, after a hearing before the director of the board has been given
24 to the person, shall be revoked by the director, irrespective of whether a
25 prosecution is commenced.

26 (2) Any person whose certificate is revoked by the director
27 shall be entitled to an appeal to the board, whose decision shall be final.
28

29 SECTION 11. Arkansas Code § 2-19-201 is amended to read as follows
30 2-19-201. Penalty.

31 (a) Any person selling or offering for sale any fertilizer or
32 fertilizer materials in violation of the provisions of this subchapter, of
33 the regulations made under it, or of a notice issued under authority of this
34 subchapter shall be deemed guilty of a ~~misdemeanor~~ violation.

35 (b) Upon conviction, an offender shall be fined in any sum not less
36 than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

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SECTION 12. Arkansas Code § 2-19-302 is amended to read as follows:

2-19-302. Penalty.

Any person who shall violate any provisions of this subchapter or any regulation adopted under this subchapter shall, upon conviction, be guilty of a violation and fined not less than one hundred dollars (\$100) for the first offense and not less than three hundred dollars (\$300) for every subsequent offense.

SECTION 13. Arkansas Code § 2-20-204 is amended to read as follows:

2-20-204. Remedies for refusing to gin.

(a)(1) Any person, firm, or corporation operating any public gin in this state as defined in § 2-20-201 who shall fail or refuse to gin cotton as required by §§ 2-20-202 and 2-20-203 shall be guilty of a ~~misdemeanor~~ violation.

(2) Upon conviction, an offender shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

(3) Each violation of this section shall constitute a separate offense.

(b) In addition to the fine, the defendant shall be liable to civil action for double damages by the person aggrieved.

SECTION 14. Arkansas Code § 2-20-403 is amended to read as follows:

2-20-403. Penalties.

(a)(1) Any first purchaser or other person required to pay an assessment pursuant to this subchapter who fails to pay any assessment when due shall forfeit a penalty of two percent (2%) of the assessment each month beginning the day following the date such assessment was due.

(2) The penalty shall be paid to the board or to its designee, the Director of the Department of Finance and Administration, and shall be disposed of in the same manner as funds derived from the payment of assessments as provided in this subchapter.

(b) The board or its designee, the Director of the Department of Finance and Administration, shall collect the penalties levied in this section, together with the delinquent assessment, by any and all of the following methods:

- 1 (1) Voluntary payment by the person liable;
- 2 (2) Legal proceedings instituted in a court of competent
- 3 jurisdiction; or
- 4 (3) Injunctive relief to enjoin any person owing the assessment
- 5 or penalties from operating his business or engaging in business as a buyer
- 6 or seller of soybeans until the delinquent assessment or penalties are paid.
- 7 (c) Any person required to pay the assessment provided for in this
- 8 subchapter who refuses to allow full inspection of the premises or any books,
- 9 records, or other documents relating to the liability of the person for the
- 10 assessment imposed, or who shall hinder or in any way delay or prevent the
- 11 inspection, shall be guilty of a ~~misdemeanor~~ violation. Upon conviction, an
- 12 offender shall be punished by a fine not exceeding five hundred dollars
- 13 (\$500).

14
15 SECTION 15. Arkansas Code § 2-20-504 is amended to read as follows:
16 2-20-504. Penalties.

17 (a)(1) Any buyer who fails to file a report or pay any assessment
18 within the required time set by the Director of the Department of Finance and
19 Administration shall forfeit to the director a penalty of five percent (5%)
20 of the assessment determined to be due, plus one percent (1%) for each month
21 of delay, or fraction thereof, after the first month after that report was
22 required to be filed or that assessment became due.

23 (2) The penalty shall be paid to the director and shall be
24 disposed of by him in the same manner as funds derived from the payment of
25 assessment imposed in this subchapter.

26 (b) The director shall collect the penalties levied in this
27 subchapter, together with the delinquent assessment, by any or all of the
28 following methods:

- 29 (1) Voluntary payment by the person liable;
- 30 (2) Legal proceedings instituted in a court of competent
- 31 jurisdiction; or

32 (3) Injunctive relief to enjoin any buyer owing an assessment or
33 penalties from operating his business or engaging in business as a buyer of
34 rice until the delinquent assessment or penalties are paid.

35 (c) Any person required to pay the assessment provided for in this
36 subchapter who refuses to allow full inspection of the premises or any books,

1 records, or other documents relating to the liability of the person for the
2 assessment imposed in this subchapter or who shall hinder or in any way delay
3 or prevent the inspection shall be guilty of a ~~misdemeanor~~ violation. Upon
4 conviction, an offender shall be punished by a fine not exceeding five
5 hundred dollars (\$500).

6
7 SECTION 16. Arkansas Code § 2-20-603 is amended to read as follows:
8 2-20-603. Penalties.

9 (a)(1) Any buyer who fails to file a report or pay any assessment
10 within the required time set by the Director of the Department of Finance and
11 Administration shall forfeit to the director a penalty of five percent (5%)
12 of the assessment determined to be due, plus one percent (1%) for each month
13 of delay, or fraction thereof, after the first month after that report was
14 required to be filed or that assessment became due.

15 (2) The penalty shall be paid to the director and shall be
16 disposed of by him in the same manner as funds derived from the payment of
17 assessment imposed in this subchapter.

18 (b) The director shall collect the penalties levied in this
19 subchapter, together with the delinquent assessment, by any or all of the
20 following methods:

21 (1) Voluntary payment by the person liable;

22 (2) Legal proceedings instituted in a court of competent
23 jurisdiction; or

24 (3) Injunctive relief to enjoin any buyer owing an assessment or
25 penalties from operating his business or engaging in business as a buyer of
26 wheat until the delinquent assessment or penalties are paid.

27 (c) Any person required to pay the assessment provided for in this
28 subchapter who refuses to allow full inspection of the premises or any books,
29 records, or other documents relating to the liability of the person for the
30 assessment imposed in this subchapter or who shall hinder or in any way delay
31 or prevent the inspection shall be guilty of a ~~misdemeanor~~ violation. Upon
32 conviction, an offender shall be punished by a fine not exceeding five
33 hundred dollars (\$500).

34
35 SECTION 17. Arkansas Code § 2-20-802 is amended to read as follows:
36 2-20-802. Penalties.

1 (a) Any buyer who fails to file a report or pay any assessment within
2 the required time set by the Director of the Department of Finance and
3 Administration shall forfeit to the director a penalty of five percent (5%)
4 of the assessment determined to be due, plus one percent (1%) for each month
5 of delay or fraction thereof after the first month after the report was
6 required to be filed or the assessment became due. The penalty shall be paid
7 to the director and shall be disposed of by him or her in the same manner as
8 funds derived from the payment of the assessment imposed in this section.

9 (b) The director shall collect the penalties levied in this section
10 together with the delinquent assessment by any or all of the following
11 methods:

12 (1) Voluntary payment by the person liable;

13 (2) Legal proceedings instituted in a court of competent
14 jurisdiction; ~~and~~ or

15 (3) Injunctive relief to enjoin any buyer owing the assessment
16 or penalties, or both, from operating his or her business or engaging in
17 business as a buyer of corn or grain sorghum until the delinquent assessment
18 or penalties, or both, are paid.

19 (c) Any person required to pay the assessment provided for in this
20 section who refuses to allow full inspection of the premises, or any books,
21 records or other documents relating to the liability of the person for the
22 assessment herein imposed, or who shall hinder or in any way delay or prevent
23 such inspection, shall be guilty of a ~~misdemeanor~~ violation and upon
24 conviction shall be punished by a fine not exceeding five hundred dollars
25 (\$500).

26
27 SECTION 18. Arkansas Code § 2-34-301 is amended to read as follows:

28 2-34-301. Penalty.

29 A willful violation of this subchapter shall be deemed a ~~misdemeanor~~
30 violation. An offending party shall, on conviction, be fined in any sum not
31 exceeding five hundred dollars (\$500), at the discretion of the court.

32
33 SECTION 19. Arkansas Code § 2-35-302 is amended to read as follows:

34 2-35-302. Penalty.

35 (a)(1) Buyers who fail to file a report or pay any assessment within a
36 required time set by the Director of the Department of Finance and

1 Administration shall forfeit to the director a penalty of five percent (5%)
2 of the assessment determined to be due, plus one percent (1%) for each month
3 of delay, or fraction thereof, after the first month after the report was
4 required to be filed or the assessment became due.

5 (2) The penalty shall be paid to the director and shall be
6 disposed of by him in the same manner as funds derived from payment of
7 assessments imposed in this subchapter.

8 (b) The director shall collect the penalties levied in this section,
9 together with the delinquent assessment, by any or all of the following
10 methods:

11 (1) Voluntary payment by the person liable;

12 (2) Legal proceedings instituted in a court of competent
13 jurisdiction; or

14 (3) Injunctive relief to enjoin any buyer owing the assessment
15 or penalties from operating his business or engaging in business as a buyer
16 of cattle until the delinquent assessment or penalties are paid.

17 (c) Any person required to pay the assessment provided for in this
18 subchapter who refuses to allow full inspection of the records relating to
19 the liability of the person for the assessment imposed in this subchapter or
20 who shall hinder or in any way delay or prevent inspection shall be guilty of
21 a ~~misdemeanor~~ violation and upon conviction shall be punished by a fine not
22 exceeding five hundred dollars (\$500).

23
24 SECTION 20. Arkansas Code § 2-37-113 is amended to read as follows:
25 2-37-113. Penalties.

26 (a) Any person convicted of violating any of the provisions of this
27 chapter or who shall impede, hinder, or otherwise prevent, or attempt to
28 prevent, the board or its authorized agent in performance of his or her duty
29 in connection with the provisions of this chapter, shall be adjudged guilty
30 of a ~~misdemeanor~~ violation punishable by a fine of not more than fifty
31 dollars (\$50.00) for the first violation, and not more than two hundred
32 dollars (\$200) for each subsequent violation and the proceeds from such fines
33 shall be remitted into the State Treasury to the credit of the General
34 Revenue Fund.

35 (b) Nothing in this chapter shall be construed as requiring the board
36 or its representative to:

- 1 (1) Report for prosecution;
- 2 (2) Institute seizure proceedings; or
- 3 (3) Issue a withdrawal from distribution order, as a result of
- 4 minor violations of the chapter, or when the board believes the public
- 5 interest will best be served by suitable notice of warning in writing.

6 (c) In all prosecutions for violations of this chapter, the
7 certificate of the analyst, or other officer making the analysis or
8 examination, when sworn to or subscribed by the analyst or officer, shall be
9 prima facie evidence of the facts therein certified.

10 (d) The board is authorized to apply for and the court to grant a
11 temporary or permanent injunction restraining any person from violating or
12 continuing to violate any of the provisions of this chapter or any regulation
13 promulgated under the chapter notwithstanding the existence of other remedies
14 at law. The injunction shall be issued without bond.

15 (e) Any person adversely affected by an act, order, or ruling of the
16 board made pursuant to the provisions of this chapter may within forty-five
17 (45) days thereafter bring action in the Pulaski County ~~Chancery~~ Circuit
18 Court for judicial review of the actions. The form of the proceeding may be
19 any which may be provided by statutes of this state to review decisions of
20 administrative agencies, or in the absence or inadequacy thereof, any
21 applicable form of legal action, including actions for declaratory judgments
22 or writs of prohibitory or mandatory injunctions.

23 (f) Any person who uses to his or her own advantage, or reveals to
24 other than the board or officers of the board or other officers of state
25 agencies, or to the courts when relevant in any judicial proceeding, any
26 information acquired under the authority of this chapter, concerning any
27 method, records, formulations, or processes which as a trade secret is
28 entitled to protection, is guilty of a Class C misdemeanor; provided, that
29 this prohibition shall not be deemed as prohibiting the board or its
30 authorized agent, from exchanging information of a regulatory nature with
31 authorized officials of the United States Government, or of other states, who
32 are similarly prohibited by law from revealing this information.

33

34 SECTION 21. Arkansas Code § 2-38-302 is amended to read as follows:

35 2-38-302. Penalty for failing to take up trespassing animals.

36 (a)(1) Any owner of animals upon receiving notice either verbal or

1 otherwise that they are at large and trespassing upon the land, premises, and
2 crops of another person shall immediately take up the animals and thereafter
3 confine them so that further depredations and damages shall be avoided.

4 (2)(A) If he or she shall fail, neglect, or refuse to take up
5 animals, upon being notified his or her animals are running at large and
6 trespassing, for twenty-four (24) hours after notification being given him or
7 her, he or she shall be guilty of a ~~misdemeanor~~ violation and, upon
8 conviction, shall be fined a sum not less than ten dollars (\$10.00) nor more
9 than fifty dollars (\$50.00).

10 (B) Each day the animals continue to run at large shall
11 constitute a separate offense.

12 (b) Where any initiated act, duly adopted by the electors as provided,
13 prescribes penalties, the penalties of this section shall be cumulative and
14 in addition thereto.

15
16 SECTION 22. Arkansas Code § 2-38-504 is amended to read as follows:

17 2-38-504. Releasing hogs into the wild.

18 (a) Any person who willfully releases any hog to live in a wild or
19 feral state upon public land or upon private land, unless the landowner has
20 consented, is in violation of this section.

21 (b) Any person who violates this section is guilty of a ~~misdemeanor~~
22 violation and upon conviction shall be subject to a fine not to exceed five
23 hundred dollars (\$500).

24
25 SECTION 23. Arkansas Code § 2-40-101 is amended to read as follows:

26 2-40-101. Penalties.

27 (a)(1) Any person who assaults or by force or violence resists,
28 opposes, impedes, intimidates, or interferes with any employee of the
29 Arkansas Livestock and Poultry Commission while the employee is engaged in
30 the performance of his or her official duties or because the employee has
31 carried out or is about to carry out his official duties shall be guilty of a
32 Class A misdemeanor and shall be punished accordingly.

33 (2) If the person uses a dangerous or deadly weapon in the
34 commission of the acts, the person shall be guilty of a Class D felony and
35 shall be punished accordingly.

36 (b) Any person who, without the use of force or violence, resists,

1 opposes, impedes, intimidates, or interferes with any employee of the
2 commission while the employee is engaged in the performance of his official
3 duties or because the employee has carried out or is about to carry out his
4 or her official duties shall be guilty of a Class C misdemeanor and shall be
5 punished accordingly.

6 (c) Any person who shall bring in, or cause to be brought in, to the
7 state any animal suffering from a contagious or infectious disease or that
8 has been exposed to the contagion or infection of any disease, knowing it to
9 have been so diseased or to have been so exposed, shall be guilty of a
10 ~~misdemeanor~~ violation. Upon conviction, an offender shall be fined in any sum
11 not to exceed five hundred dollars (\$500). He or she shall, moreover, be
12 liable for damages to others due to infection from the animal.

13
14 SECTION 24. Arkansas Code § 2-40-301 is amended to read as follows:

15 2-40-301. Penalty.

16 Any person, company, or corporation in any county of this state failing
17 to do its duty provided in this subchapter or violating any of the provisions
18 of this subchapter shall be deemed guilty of a ~~misdemeanor~~ violation. Upon
19 conviction, the offender shall be fined in any sum of not less than ten
20 dollars (\$10.00) nor more than fifty dollars (\$50.00).

21
22 SECTION 25. Arkansas Code § 2-40-702 is amended to read as follows:

23 2-40-702. Penalties.

24 (a) Any person violating the provisions of this subchapter shall be
25 guilty of a ~~misdemeanor~~ violation and, upon conviction, shall be fined not
26 less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

27 (b)(1) It shall be unlawful for any person, firm, corporation, or
28 association to have in possession or keep, sell, or offer for sale, barter,
29 exchange, give away, or otherwise dispose of hog cholera virus in this state,
30 except at the University of Arkansas or other state-supported institutions of
31 higher learning and under the supervision of a licensed veterinarian and with
32 a special written permit issued by the Arkansas Livestock and Poultry
33 Commission.

34 (2) Any person, firm, corporation, or association violating any
35 of the provisions of this subsection shall be guilty of a ~~misdemeanor~~
36 violation and, upon conviction, shall be fined not less than twenty-five

1 dollars (\$25.00) nor more than five hundred dollars (\$500).

2
3 SECTION 26. Arkansas Code § 2-40-1002 is amended to read as follows:
4 2-40-1002. Federal quarantine line.

5 (a)(1) It shall be unlawful for any person or corporation to drive or
6 transport any cattle from south to north across the cattle quarantine line
7 within the State of Arkansas, as it may be fixed by the proper authorities of
8 the United States.

9 (2) This section shall not apply to persons or corporations
10 driving or transporting cattle across the quarantine line as infected cattle
11 or as cattle from infected districts or to persons driving any cattle across
12 the line during the time it is not prohibited by the United States
13 authorities.

14 (b) Any person or corporation who shall violate the provisions of this
15 section, being either the owners of the cattle, or carriers, or driver for
16 hire, or otherwise, shall be deemed guilty of a ~~misdemeanor~~ violation. Upon
17 conviction, an offender shall be fined in any sum not less than fifty dollars
18 (\$50.00) nor more than two hundred dollars (\$200).

19 (c)(1) Any citizen of this state shall have the power, and it shall be
20 the duty of all peace officers of the respective counties of this state, to
21 stop any cattle driven or transported or being driven or transported across
22 the quarantine line from south to north and impound and drive or transport
23 the cattle back south of the quarantine line.

24 (2) All costs and expenses incurred by a citizen or peace
25 officer incurred in impounding or driving the cattle back south of the
26 quarantine line shall be taxed as costs against the person or corporation
27 convicted of the unlawful driving of the cattle across the line in violation
28 of this section.

29 (d) The courts of competent jurisdiction in any county north of the
30 quarantine line, through which or into which cattle shall be driven, shall
31 have cognizance of violations of the provisions of this section.

32
33 SECTION 27. Arkansas Code § 2-40-1004 is amended to read as follows:
34 2-40-1004. Penalties for cattle drifting or being transported across
35 district line.

36 (a) Cattle from below the district cattle quarantine line shall not be

1 allowed to drift across the line, and the owner of the cattle allowing them
2 to so drift across shall be deemed guilty of a ~~misdemeanor~~ violation. Upon
3 conviction, the owner shall be fined in any sum of not less than two hundred
4 dollars (\$200) nor more than five hundred dollars (\$500). This penalty shall
5 not apply to adjoining landowners as described in § 2-40-1001. Cattle from
6 above the line which drift across the line shall be subject to the laws
7 affecting other cattle below the line.

8 (b) At no season of the year shall cattle be driven or transported
9 across the district quarantine line without a certificate of inspection by a
10 federal or state veterinary inspector. Any person so driving or transporting
11 cattle or any persons found aiding or abetting in the driving or transporting
12 of cattle shall be guilty of a ~~misdemeanor~~ violation and shall, upon
13 conviction, be fined in any sum of not less than two hundred dollars (\$200)
14 nor more than five hundred dollars (\$500) for each offense.

15
16 SECTION 28. Arkansas Code §§ 3-3-203 and 3-3-204 are amended to read
17 as follows:

18 3-3-203. Purchase or possession by minor.

19 (a)(1) It shall be unlawful for any person under the age of twenty-one
20 (21) years to purchase or have in possession any intoxicating liquor, wine,
21 or beer.

22 (2) For the purposes of this section, intoxicating liquor, wine,
23 or beer in the body of a minor shall not be deemed to be in his possession.

24 (b) It shall also be unlawful for any adult to purchase on behalf of a
25 person under the age of twenty-one (21) years any intoxicating liquor, wine,
26 or beer.

27 (c) Any person violating this section shall be deemed guilty of a
28 ~~misdemeanor~~ violation and upon conviction shall be subject to a fine of not
29 less than one hundred dollars (\$100) nor more than five hundred dollars
30 (\$500).

31 (d) In addition to the penalty herein provided, the trial judge or
32 magistrate may impose the following penalty or penalties or any combination
33 thereof:

34 (1) Requiring persons under the age of twenty-one (21) years to
35 write themes or essays on intoxicating liquors, wine, or beer; and

36 (2) Placement of a person under the age of twenty-one (21) years

1 under probationary conditions as determined by the court in its reasonable
2 discretion designed as a reasonable and suitable preventive and educational
3 safeguard to prevent future violations of this section by the person.

4
5 3-3-204. Handling by minor.

6 (a) Except as provided in subsection (b) or (c) of this section, it
7 shall be unlawful for any wholesaler, retailer, or transporter of alcoholic
8 beverages to allow any employee or any other person under twenty-one (21)
9 years of age to have anything whatsoever to do with the selling,
10 transporting, or handling of alcoholic beverages.

11 (b) With the written consent of a parent or guardian, persons eighteen
12 (18) years of age and older may:

13 (1) Sell or otherwise handle beer and cooking wines at retail
14 grocery establishments; or

15 (2) Be employed by a licensed liquor wholesaler or licensed beer
16 wholesaler or by a licensed native winery to handle alcoholic beverages at
17 the place of business of the licensed wholesaler or winery.

18 (c) Persons nineteen (19) years of age and older, with the written
19 consent of a parent or guardian, may sell and handle alcoholic beverages at
20 an establishment which is licensed for on-premises consumption of alcoholic
21 beverages under §§ 3-9-202(8) and (9), 3-9-301, or 3-9-501.

22 (d)(1) Anyone violating the provisions of this section shall be guilty
23 of a ~~misdemeanor~~ violation and upon conviction shall be fined not less than
24 ten dollars (\$10.00) nor more than one hundred dollars (\$100).

25 (2) The violation shall be grounds for suspension, cancellation,
26 or revocation by the Director of the Alcoholic Beverage Control Division of
27 any permit issued to the person by the director.

28
29 SECTION 29. Arkansas Code §§ 3-3-305 and 3-3-306 are amended to read
30 as follows:

31 3-3-305. Transportation by motor vehicle.

32 (a) It is unlawful for a motor vehicle to carry at any one time in any
33 county or part of a county in which it is unlawful to manufacture, sell,
34 barter, loan, or give away intoxicating liquors, more than one (1) gallon of
35 spirituous, vinous, or malt liquor and three (3) gallons or one (1) case of
36 beer.

1 (b) Any alcoholic beverages in excess of the amounts prescribed above
2 found inside or on a vehicle in violation of this section shall be
3 confiscated pursuant to an order of a court of competent jurisdiction.

4 (c) The provisions of this section shall not apply to properly
5 licensed retailers and wholesalers when so authorized by the Director of the
6 Alcoholic Beverage Control Division, to common carriers or bonded carriers
7 duly licensed by the Arkansas State Highway and Transportation Department, to
8 a private or contract carrier holding a proper permit from the Director of
9 the Alcoholic Beverage Control Division to transport intoxicating liquors
10 within the State of Arkansas where the liquors are consigned to a point
11 beyond the dry territory, or to individuals in transit when the individuals
12 are not residents of the dry territory.

13 (d) The operator of any motor vehicle violating the provisions of this
14 section shall be guilty of a ~~misdemeanor~~ violation and shall be fined not
15 less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

16 (e) This section shall not be deemed to repeal any acts pertaining to
17 possession of alcoholic beverages in dry territory, but shall be cumulative
18 thereto.

19
20 3-3-306. Possession of alcoholic beverages other than beer.

21 (a) It shall be unlawful for any person, firm, or corporation to
22 possess more than one (1) gallon of spirituous, vinous, or malt liquors other
23 than beer, in any county or part of a county in which it is unlawful to
24 manufacture, sell, barter, loan, or give away intoxicating liquors.

25 (b) Such liquor or liquors found in the possession of any person shall
26 be confiscated pursuant to an order of a court of competent jurisdiction.

27 (c) The provisions of this section shall not apply to common carriers
28 in transit through such county providing further that the provisions of this
29 section shall not apply to licensed bonded dealers or individuals in transit,
30 when those individuals are not residents of the dry county.

31 (d) Any person, firm, or corporation violating the provisions of this
32 section shall be guilty of a ~~misdemeanor~~ violation and shall be fined not
33 less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

34
35 SECTION 30. Arkansas Code § 3-3-309 is amended to read as follows:

36 3-3-309. Procuring liquor for another.

1 (a) It shall be unlawful for any person to either directly or
2 indirectly procure or purchase for another, any alcohol, or spirituous,
3 ardent, vinous, malt, or fermented liquors; any compound or preparation
4 thereof commonly called tonics, bitters, or medicated liquors; or
5 intoxicating spirits of any character, in any district or territory where
6 they are prohibited by law. However, this section shall not prohibit one
7 person from buying for another from a licensed dealer.

8 (b) Any person who shall violate any of the provisions of this section
9 shall be deemed guilty of a ~~misdemeanor~~ violation and fined in any sum not
10 less than one hundred dollars (\$100) nor more than five hundred dollars
11 (\$500).

12
13 SECTION 31. Arkansas Code § 3-5-221 is amended to read as follows:

14 3-5-221. Miscellaneous prohibited practices - Penalties.

15 (a)(1) Any person being either a retail dealer or who knowingly places
16 in his stock or who brings upon his premises, who has in his possession or
17 who sells or offers for sale any beer or wine on which the tax provided by
18 law has not been paid shall, in addition to the other fines, penalties, and
19 forfeitures, be subject to penalty of twenty-five dollars (\$25.00) for each
20 package of untaxed liquor so held or offered for sale.

21 (2) The penalty shall be in the nature of liquidated damages and
22 may be collected by civil action.

23 (b) It shall be unlawful for any brewer or distributor of light wines
24 or beer to manufacture or knowingly bring upon his premises and keep thereon
25 any beer or wine of an alcoholic content in excess of five percent (5%) by
26 weight or any distilled spirits of any alcoholic content whatsoever.

27 (c) Any person who shall add to or mix with any beer or wine as
28 defined in this subchapter, any alcoholic or any other liquid, any alcohol
29 cube or cubes, or any other ingredient or ingredients that will increase or
30 tend to increase the alcoholic content or who shall knowingly offer any such
31 liquor for sale shall be guilty of a ~~misdemeanor~~ violation and shall be fined
32 in any sum not less than one hundred dollars (\$100).

33 (d)(1) It shall be unlawful for a licensee or for any agent, servant,
34 or employee of a licensee:

35 (A) To suffer or permit any dice to be thrown for money or
36 for anything of value or to suffer or permit gambling with cards, dominoes,

1 raffle, or other games of chance, or any form of gambling in the place
2 designated by the license or in any booth, room, yard, garden, or other place
3 appurtenant thereto;

4 (B) To suffer or permit the licensed premises to become
5 disorderly;

6 (C) To sell, barter, furnish, or give away to any minor
7 under the age of twenty-one (21) years any wine or beer;

8 (D) To sell, barter, furnish, or possess in the place
9 designated by the license, or in any booth, yard, or garden, any alcoholic
10 liquors or beverages containing in excess of five percent (5%) of alcohol by
11 weight, or to permit any such acts to be done;

12 (E) To permit any immoral or lascivious conduct on the
13 part of the patrons or others at or in the licensed premises, or in any place
14 appurtenant thereto; or

15 (F) To suffer or permit the use of any profane, violent,
16 abusive, or vulgar language at or in such licensed premises, or in any place
17 appurtenant thereto.

18 (2) The acts and conduct of the agents, servants, and employees
19 of a licensee in the conduct of the business shall be deemed the acts and
20 conduct of the licensee.

21 (3) Any violation of the provisions of this subsection shall
22 constitute a Class A misdemeanor ~~and shall be punished by a fine of not more~~
23 ~~than five hundred dollars (\$500) and not more than one (1) year in jail~~, and
24 each day the offense shall be continued shall constitute a separate offense.
25

26 SECTION 32. Arkansas Code § 3-7-103 is amended to read as follows:

27 3-7-103. Penalty - Revocation.

28 Any person who shall violate any of the provisions of §§ 3-7-101 - 3-7-
29 104 and 3-7-106 - 3-7-110 shall be guilty of a ~~misdemeanor~~ violation and upon
30 conviction be fined not less than five hundred dollars (\$500) nor more than
31 one thousand dollars (\$1,000).
32

33 SECTION 33. Arkansas Code § 3-7-111 is amended to read as follows:

34 3-7-111. Additional taxes.

35 (a)(1) In addition to all other fees and taxes now imposed by law,
36 there is levied and shall be collected the following additional fees and

1 taxes:

2 (A) An additional tax of five cents (5¢) per case on each
3 case of native wine produced and sold in this state, including light wines,
4 wine coolers, and any other mixture containing the fermented juices of
5 grapes, berries, fruits, or vegetables, regardless of the percentage of
6 alcoholic content, the tax to be paid by the manufacturer of the wine;

7 (B) A consumer enforcement tax of twenty-five cents (25¢)
8 per thirty-two (32) gallon barrel of beer which may be passed on by the
9 retailer to the consumer or may be absorbed by the retailer, the tax to be
10 collected by the beer wholesalers acting as agent for the state;

11 (C) In addition to the fee imposed for the privilege of
12 operating a dispensary under § 3-4-604, an additional fee of one hundred
13 dollars (\$100) for the issuance of each permit; and

14 (D) In addition to the permit fee now imposed under § 3-4-
15 605 for the privilege of storing, transporting, and selling at wholesale
16 spirituous, vinous, or malt liquors, an additional tax of three hundred
17 dollars (\$300).

18 (2) All additional permit fees and taxes imposed under
19 subdivisions (a)(1)(B), (a)(1)(C), and (a)(1)(D) of this section shall be
20 levied and collected in the same manner as now provided by law.

21 (3) The tax imposed by subdivision (a)(1)(A) of this section
22 shall be reported monthly by the manufacturer on all sales made in Arkansas
23 to Arkansas wholesalers, retailers, or consumers, and the manufacturer shall
24 remit the tax with each report.

25 (4) All additional permit fees and taxes levied by subdivisions
26 (a)(1)(A)-(a)(1)(D) of this section shall be deposited in the State Treasury
27 as general revenues and credited to the State Apportionment Fund. These
28 amounts shall be allocated and transferred to the various funds, fund
29 accounts, and accounts participating in general revenues in the respective
30 proportions to each as provided by law and shall be used for the respective
31 purposes set forth in the Revenue Stabilization Law of Arkansas, § 19-5-101
32 et seq.

33 (b)(1) There is levied and there shall be collected as provided by law
34 and regulation:

35 (A) A tax at the rate of twenty cents (20¢) per case on
36 liquor, cordials, liqueurs, premixed spirituous liquors, and specialties

1 having an alcoholic content of twenty-one percent (21%) or more by weight;

2 (B) A tax at the rate of five cents (5¢) per case on
3 liquor, cordials, liqueurs, premixed spirituous liquors, light spirituous
4 liquors, and specialties having an alcoholic content of less than twenty-one
5 percent (21%) alcohol by weight; and

6 (C) A tax at the rate of five cents (5¢) per case on
7 sparkling and still wines, including light wines, regardless of alcoholic
8 content.

9 (2) The tax shall be paid by the wholesaler and shall not be
10 passed on by the wholesaler to the retailer or the public. These taxes shall
11 be paid on all such merchandise sold or offered for sale in the State of
12 Arkansas and shall be in addition to any and all other taxes heretofore or
13 hereafter levied and collected on that merchandise.

14 (3) All taxes, penalties, fines, and costs received by the
15 Director of the Department of Finance and Administration under the provisions
16 of this subsection shall be deposited in the State Treasury as general
17 revenues to the credit of the State Apportionment Fund. There those amounts
18 shall be allocated to the various funds, fund accounts, and accounts
19 participating in general revenues in the respective proportions to each as
20 provided by, and shall be used for the respective purposes set forth in, the
21 Revenue Stabilization Law of Arkansas, § 19-5-101 et seq.

22 (4) Any person who violates any of the provisions of this
23 subsection shall be deemed guilty of a ~~misdemeanor~~ violation and upon
24 conviction shall be fined not less than one hundred dollars (\$100) nor more
25 than five hundred dollars (\$500).

26
27 SECTION 34. Arkansas Code §§ 4-18-101 and 4-18-102 are amended to read
28 as follows:

29 4-18-101. Goods to weigh as marked - Penalty.

30 (a) Every package, bag, or bundle of goods or merchandise shall
31 contain in weight what it is branded, marked, or said to contain.

32 (b) Any person, firm, or corporation violating the provisions of this
33 section shall be deemed guilty of a ~~misdemeanor~~ violation and upon conviction
34 shall be fined not less than one dollar (\$1.00) nor more than twenty-five
35 dollars (\$25.00) for each package, bag, or bundle sold in violation of this
36 section.

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4-18-102. False or short weights and measures - Penalty.

Whoever knowingly buys or sells or permits any person in his employ to buy or sell any property and make or give any false or short weights or measure, and any person owning or having charge of any scales fixed for the purpose of misweighing any article bought or sold, and any person having any such scales for the purpose of weighing any property and who knowingly reports any false or untrue weight, and any firm or corporation using in the sale of any commodity a computing scale or device indicating the weight and price of the commodity upon which scale or device the graduation or indication are false or inaccurately placed, either as to weight or price, shall be deemed guilty of a ~~misdemeanor~~ violation. Upon conviction he or she shall be fined in any sum not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100), and each sale made on any such scale or device shall constitute a separate offense.

SECTION 35. Arkansas Code § 4-18-106 is amended to read as follows:

4-18-106. Bushel of apples - What constitutes.

(a) A box nine inches (9") deep, twelve inches (12") wide, and twenty inches (20") long shall constitute a lawful bushel measure for apples.

(b) Any person violating the provisions of this section shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00) for each offense.

SECTION 36. Arkansas Code § 4-18-221 is amended to read as follows:

4-18-221. Grain elevator moisture meters.

(a) The Arkansas Bureau of Standards shall periodically, at least annually, test all moisture meters used at public grain elevators in this state where wheat, soybeans, rice, milo, or any other grain is bought and sold.

(b) Moisture testers may be rejected for any of the following reasons:

(1) The moisture testing device tested is found to be out of tolerance with the testing machine used by the inspector by more than one-half of one percent (0.5%), plus or minus (+ or -), on grain under twenty-two percent (22%) moisture content or by more than one percent (1%), plus or

1 minus (+ or -), on grain having twenty-two percent (22%) or more moisture
2 content;

3 (2) The warehouseman does not have available the latest charts
4 for the type of machine being used;

5 (3) The warehouseman does not have available the proper scale or
6 scales and the thermometers for use with the type of machine being used; or

7 (4) The moisture testing device is not free from excessive dirt,
8 cracked glass, or is not kept in good operational condition at all times.

9 (c) It is unlawful for any person to use any moisture meter
10 disapproved by the bureau, and any person violating the provisions of this
11 section shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall
12 be subject to a fine of not less than twenty-five dollars (\$25.00) nor more
13 than two hundred fifty dollars (\$250).
14

15 SECTION 37. Arkansas Code § 4-57-103 is amended to read as follows:
16 4-57-103. Statement of principal and interest.

17 (a) Any seller, lender, or any other person, corporation, or legal
18 entity extending credit in this state shall, upon written request of the
19 borrower or debtor, furnish the borrower or debtor, at the time of extending
20 credit or of making the sale, with a statement separately stating the
21 principal and interest charged for any goods, property, or services sold to
22 the borrower or debtor.

23 (b)(1) Any creditor willfully refusing to furnish the statement of
24 principal and interest as herein required, or who, upon furnishing the
25 statement of principal and interest to the borrower or debtor, fraudulently
26 misrepresents the amount of principal or interest paid, shall be guilty of a
27 ~~misdemeanor~~ violation and upon conviction shall be subject to a fine of not
28 less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

29 (2) Each violation of this section shall constitute a separate
30 offense.
31

32 SECTION 38. Arkansas Code § 4-70-202 is amended to read as follows:
33 4-70-202. Penalties.

34 Any person owning, carrying on, or transacting business as designated
35 in this subchapter who fails to comply with any provision of this subchapter
36 shall be guilty of a violation and fined not less than twenty-five dollars

1 (\$25.00) nor more than one hundred dollars (\$100). Each day of the violation
2 shall be a separate offense.

3
4 SECTION 39. Arkansas Code § 4-75-503 is amended to read as follows:

5 4-75-503. Furnishing or transmitting news.

6 (a) All corporations, companies, individuals, associations, persons,
7 companies, or corporations associated for the purpose of furnishing news for
8 publication in newspapers and engaged in furnishing news for publication
9 shall furnish the service to all newspapers, persons, companies, or
10 corporations authorized to do business under the laws of this state at
11 uniform rates and without discrimination, and the service shall be given in
12 the same manner and at the same cost to all. No increase in the rate charged
13 for such news service shall apply in this state unless the increased rates
14 shall be made in conformity with the uniform increased rates made for all
15 other points wherever the news service may be furnished by the persons,
16 companies, corporations, associations, or companies associated.

17 (b) Any person, association, company, or corporation associated
18 violating the provisions of this section shall be guilty of a violation and
19 fined in any sum not less than one thousand dollars (\$1,000) nor more than
20 five thousand dollars (\$5,000), and each day's violation shall constitute a
21 separate offense and shall be punished as such.

22 (c)(1) Any telegraph company or telephone company transmitting or
23 permitting to be transmitted over its lines, by lease or otherwise, or which
24 shall receive for transmission over any of its lines, from any persons,
25 companies, corporations, associations, or persons associated, any news item,
26 the transmission of which is prohibited by this section, shall be guilty of a
27 violation and punished by a fine of not less than five hundred dollars (\$500)
28 nor more than five thousand dollars (\$5,000).

29 (2) The Attorney General or any prosecuting attorney of the
30 state is empowered, authorized, and directed to bring suit in the name of the
31 State of Arkansas for the recovery of the penalty prescribed by subdivision
32 (c)(1) of this ~~subsection~~ section ~~and shall receive as compensation for their~~
33 ~~services twenty five percent (25%) of all sums collected.~~

34 (d) Any person, company, corporation, or any association of persons
35 against whom a discrimination shall be made in the rate charged or of
36 services rendered by any association, company, or corporation, or persons

1 associated in the furnishing of news service, or to whom such news service is
2 refused, shall be entitled to recover damages in any sum not less than one
3 thousand dollars (\$1,000) per day for each day of the discrimination or
4 refusal.

5
6 SECTION 40. Arkansas Code § 4-75-708 is amended to read as follows:

7 4-75-708. Sales at less than cost, rebates, concessions, etc. -

8 Penalty.

9 (a) It shall be unlawful for any wholesaler, retailer, or salesperson
10 with intent to injure competitors or destroy or substantially lessen
11 competition to advertise, offer to sell, or sell, at retail or wholesale,
12 cigarettes at less than cost to the wholesaler or retailer, as the case may
13 be.

14 (b) It shall be unlawful for any wholesaler, retailer, or salesperson
15 with intent to injure competitors or destroy or substantially lessen
16 competition to offer a rebate in price, to give a rebate in price, to offer a
17 concession of any kind, or to give a concession of any kind or nature
18 whatsoever in connection with the sale of cigarettes.

19 (c)(1) It shall be unlawful for any retail dealer to induce or attempt
20 to induce or to procure or attempt to procure the purchase of cigarettes at a
21 price less than cost to the wholesaler.

22 (2) It shall be unlawful for any retail dealer to induce or
23 attempt to induce or to procure or attempt to procure any rebate or
24 concession of any kind or nature whatsoever in connection with the purchase
25 of cigarettes.

26 (d) Any wholesaler, retailer, or salesperson who violates the
27 provisions of this section shall be guilty of a ~~misdemeanor and be punishable~~
28 by violation and upon conviction is subject to a fine of not more than five
29 hundred dollars (\$500).

30 (e) The following shall be prima facie evidence of intent to injure
31 competitors and destroy or substantially limit competition:

32 (1) The advertisement, offer for sale, or sale of cigarettes by
33 any wholesaler, retailer, or salesperson at less than cost to him or her;

34 (2) Any offer of a rebate in price or the giving of a rebate in
35 price or an offer of a concession or the giving of a concession of any kind
36 or nature whatsoever in connection with the sale of cigarettes; or

1 (3) Inducing or attempting to induce or procuring or attempting
2 to procure the purchase of cigarettes at a price less than cost to the
3 wholesaler or the retailer.

4
5 SECTION 41. Arkansas Code § 4-75-807 is amended to read as follows:
6 4-75-807. Fresh dairy products - Unlawful to limit quantity of
7 purchase.

8 (a) It shall be unlawful for any vendor of fresh dairy products in
9 this state who advertises or displays any of the products for sale at
10 specified prices to restrict or limit the number or quantity of any such
11 products to be sold to any purchaser desiring to purchase the products so
12 long as the supply of the products to be purchased is available.

13 (b)(1) Any person violating the provisions of this section shall be
14 guilty of a ~~misdemeanor~~ violation and upon conviction shall be punished by a
15 fine of not more than one hundred dollars (\$100).

16 (2) Each violation of this section shall be punishable as a
17 separate offense.

18
19 SECTION 42. Arkansas Code § 4-75-903 is amended to read as follows:
20 4-75-903. Penalties.

21 Any person violating or failing to comply with the provisions of this
22 subchapter shall be guilty of a ~~misdemeanor~~ violation and upon conviction
23 shall be subject to a fine of one hundred dollars (\$100) for each day the
24 violation or noncompliance continues.

25
26 SECTION 43. Arkansas Code § 4-104-204 is amended to read as follows:
27 4-104-204. Violations - Penalties.

28 Any credit card issuer violating this subchapter shall be deemed guilty
29 of a ~~misdemeanor~~ violation and fined not less than five hundred dollars
30 (\$500) nor more than one thousand dollars (\$1,000) for each violation.

31
32 SECTION 44. Arkansas Code §§ 5-27-222, 5-27-223, and 5-27-224 are
33 amended to read as follows:

34 5-27-222. Neglect of minor resulting in delinquency.

35 Any parent or person standing in loco parentis to a child under the age
36 of eighteen (18) years whose gross neglect of parental duty with reference to

1 the child proximately results in delinquency of the child or who, through
2 gross neglect of parental duty with reference to the child, fails to correct
3 the delinquency of the child shall be deemed guilty of a ~~misdemeanor~~
4 violation and upon conviction shall be punished by a fine not to exceed two
5 hundred fifty dollars (\$250).

6
7 5-27-223. Permitting minors to play in saloons.

8 (a) It shall be unlawful for any owner or keeper of any dramshop or
9 saloon or any employee of such owner or keeper to permit minors to play in
10 such dramshop or saloon, or any apartment thereof, at any game of cards,
11 billiards, pool, or any other game known by any other name or without any
12 name, for a bet or wager on such game, or for amusement without any bet or
13 wager.

14 (b) Any person violating the provisions of subsection (a) of this
15 section shall be deemed guilty of a ~~misdemeanor~~ violation and shall, on
16 conviction, be fined in any sum not less than twenty dollars (\$20.00) nor
17 more than fifty dollars (\$50.00).

18
19 5-27-224. Permitting minors to frequent and play in poolrooms.

20 (a) It shall be unlawful for the owner or keeper of any poolroom or
21 pool hall or pool parlor or any employee of such owner or keeper to permit
22 any person or persons under the age of eighteen (18) years to play pool,
23 billiards, or any other game, or frequent or congregate in such poolroom or
24 pool parlor or pool hall, or any department thereof.

25 (b) Any person violating the provisions of subsection (a) of this
26 section shall be deemed guilty of a ~~misdemeanor~~ violation and shall, on
27 conviction, be fined in any sum not less than ten dollars (\$10.00) nor more
28 than one hundred dollars (\$100).

29
30 SECTION 45. Arkansas Code § 5-37-520 is amended to read as follows:

31 5-37-520. Misrepresentation of nature of business.

32 (a) It shall be unlawful for any person, firm, association, or
33 corporation to misrepresent the true nature of its business by use of the
34 words "manufacturer", "wholesaler", "retailer", or words of similar import or
35 for any person, firm, association, or corporation to represent itself as
36 selling at wholesale or to use the word wholesale in any form of sale or

1 advertising unless such person, firm, association, or corporation is actually
2 selling at wholesale those items advertised for the purpose of resale.

3 (b) For the purpose of this section, the term "wholesale" shall mean a
4 sale made for the purpose of resale and not one made to the consuming
5 purchaser.

6 (c) Any person who violates any provision of this section shall be
7 deemed guilty of a ~~misdemeanor~~ violation and upon conviction shall be
8 punished by a fine of not less than fifty dollars (\$50.00) and not more than
9 two hundred dollars (\$200), with each day's violation constituting a separate
10 offense.

11
12 SECTION 46. Arkansas Code § 5-38-210 is amended to read as follows:

13 5-38-210. Allowing animals into enclosures - Division fences.

14 (a)(1) Any person who shall willfully, directly, or indirectly turn
15 loose any horse, mule, hog, sheep, goat, or domesticated cattle or any other
16 animal, or so allow any such animals to be turned loose in any enclosure
17 where crops of any kind are growing or have been cultivated and not gathered,
18 without the consent of all persons or their agents owning and cultivating
19 such crops, shall be guilty of a ~~misdemeanor~~ violation, and upon conviction
20 shall be fined not less than ten dollars (\$10.00) nor more than one hundred
21 dollars (\$100), this section not to be enforced for a trespass occurring
22 after the close of the year in which the crop has been grown.

23 (2) Willfully to leave open gates or gaps in fences in such
24 manner that an animal will or can enter such cultivated land when the crop is
25 not gathered and in the year in which the crop is grown shall be a violation
26 of this section and be punished as herein provided.

27 (b)(1) Where different owners or their tenants have cultivated under a
28 common enclosure, one (1) or more years, and anyone owning only a part of the
29 land desires to avoid the penalties of this section, and will put up half of
30 a division fence by March 1 in any year, and give notice in writing before
31 January 1 preceding March 1, to the owner of the balance of the field,
32 notifying him or her to put up the balance of the division fence, and the
33 owner so notified fails to enclose his or her land by putting up the balance
34 of the division fence, or a fence entirely his or her own, before April 1
35 following such notice, the person giving the notice shall not be liable to
36 the penalties herein provided for trespass that may occur on the land of the

1 owner so notified.

2 (2) Where division fences are put up under the provisions of
3 this section or have existed for one (1) year or more by common consent of
4 adjacent owners of land, no one shall break or remove the fences, or any part
5 thereof, without giving at least nine (9) months' notice of the intention to
6 do so to the owner or agent of the adjoining land enclosed by the fence, and,
7 if done without such notice, the offender shall be punished as provided in
8 this section.

9 (c) It is not the purpose of this section to repeal or modify any law
10 of enclosure now existing, nor the remedies therein, nor to affect or repeal
11 any animal statute or law whatever, nor the penalties therein.

12

13 SECTION 47. Arkansas Code § 5-38-212 is amended to read as follows:

14 5-38-212. Destruction of native growth.

15 (a) The wanton and willful destruction of holly, dogwood, pines, and
16 cedar and other native southern growth is prohibited.

17 (b) The cutting or destruction of holly, dogwood, pines, and cedar and
18 other native southern growth within a distance of fifty (50) yards of either
19 side of the highways of this state is prohibited except by the owners of the
20 land upon which the growth is found, or upon the consent of the owners.

21 (c) This section shall not be construed to prevent owners of real
22 property from clearing their land of such growth or from cutting and
23 marketing the pines, cedars, and other timber on their land.

24 (d) Any person violating the provisions of this section shall be
25 ~~deemed~~ guilty of a ~~misdemeanor~~ violation and shall be fined in any sum not
26 less than twenty-five dollars (\$25.00) nor more than one hundred dollars
27 (\$100).

28

29 SECTION 48. Arkansas Code §§ 5-39-212 and 5-39-213 are amended to read
30 as follows:

31 5-39-212. Cemeteries - Access - Debris - Disturbance.

32 (a) It shall be unlawful for any person, firm, corporation,
33 partnership, or association to:

34 (1) Construct any fence on any property in such manner as to
35 enclose any cemetery unless suitable access by automobile to the cemetery is
36 provided by gate or otherwise. The word "cemetery", as used in this

1 subsection, is not intended to apply to any private family burial plot which
2 contains fewer than six (6) commercial grave markers and has not been used
3 for burial purposes for at least twenty-five (25) years and which has not had
4 an access road to the burial plot for at least thirty (30) years. Nothing in
5 this section prohibits the placement of a fence around any cemetery for the
6 purpose of defining boundaries or protection of grave sites;

7 (2) [Repealed].

8 (b) Any person, firm, corporation, partnership, or association
9 violating any of the provisions of this section shall be guilty of a
10 ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not less
11 than ten dollars (\$10.00) nor more than one hundred dollars (\$100), and every
12 day that the violation shall exist shall be a separate offense.

13
14 5-39-213. Advertising on property without owner's written permission.

15 (a) It shall be unlawful for any person or persons, firms, or
16 corporations to place any advertising on any property in this state without
17 first securing the written permission of the owner of the property.

18 (b) Any person violating the provisions of this section shall be
19 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any
20 sum not less than twenty-five dollars (\$25.00) nor more than one hundred
21 dollars (\$100).

22
23 SECTION 49. Arkansas Code § 5-39-302 is amended to read as follows:

24 5-39-302. Unlawful entry.

25 (a) It shall be unlawful for any person to enter upon any enclosed
26 grazing land except by way of a gate, gap, or other opening.

27 (b) Any person so entering shall be guilty of a ~~misdemeanor~~ violation
28 and shall be punished by a fine of:

29 (1) Not less than one hundred dollars (\$100) for the first
30 offense; or

31 (2) Not less than two hundred fifty dollars (\$250) for the
32 second offense.

33
34 SECTION 50. Arkansas Code § 5-53-132 is amended to read as follows:

35 5-53-132. Misconduct in selecting or summoning jurors.

36 Every person whose duty it shall be to select or summon any jurors in

1 any court, or before any officer, who shall be guilty of any unlawful,
2 partial, or improper conduct in selecting or summoning any juror shall be
3 deemed guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined
4 in any sum not less than one hundred dollars (\$100).

5
6 SECTION 51. Arkansas Code § 5-54-130 is amended to read as follows:

7 5-54-130. Radio voice privacy adapters.

8 (a) It is unlawful for any person other than a law enforcement officer
9 or agency, or fire department or employee thereof, to own or operate or
10 possess any radio equipment described as a voice privacy adapter or any other
11 device capable of receiving and decoding police and fire department
12 communications which have been transmitted through a voice privacy adapter.

13 (b) The provisions of this section shall not apply to any police
14 department or agency or any other agency having law enforcement
15 responsibility nor to fire departments of any political subdivision of this
16 state.

17 (c) Any person who violates any provision of this section shall be
18 ~~deemed~~ guilty of a ~~misdemeanor~~ violation and upon conviction shall be
19 punished by a fine of not less than fifty dollars (\$50.00) nor more than five
20 hundred dollars (\$500).

21 (d) As used in this section, the word "person" shall include the
22 singular and plural and shall also mean and include any person, firm,
23 corporation, association, club, copartnership, society, or any other
24 organization.

25
26 SECTION 52. Arkansas Code §§ 5-60-114 and 5-60-115 are amended to read
27 as follows:

28 5-60-114. Open shafts or wells.

29 (a) It shall be unlawful for any corporation, company, individual
30 person, or association of persons to leave any shaft, well, or other opening
31 uncovered on any unenclosed land.

32 (b) Every corporation, company, individual person, or association of
33 persons who shall dig any shaft, well, or other opening, whether for the
34 purpose of mining or other purpose, shall be required to securely enclose the
35 opening, or cover and keep it covered with strong and sufficient covering.

36 (c) Every corporation, company, individual, person, or association of

1 persons who shall violate the provisions of this section shall be deemed
2 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any
3 sum not less than twenty-five dollars (\$25.00) nor more than one hundred
4 dollars (\$100) for any such offense and shall be liable to anyone who may
5 lose any stock by such opening for twice the appraised value of the stock.

6
7 5-60-115. Filling or covering abandoned water wells.

8 (a) When the owner of lands shall abandon or cease to use any dug
9 water well located on such lands, he shall either fill the well or place a
10 sturdy cover over such well so as to prevent animals and persons from falling
11 in the well.

12 (b) Any person who shall willfully fail or refuse to either fill or
13 cover such well, as provided in subsection (a) of this section, shall be
14 guilty of a ~~misdemeanor~~ violation and upon conviction shall be subject to a
15 fine of not less than ten dollars (\$10.00) nor more than fifty dollars
16 (\$50.00).

17
18 SECTION 53. Arkansas Code §§ 5-63-201 and 5-63-202 are amended to read
19 as follows:

20 5-63-201. Tickets to school athletic events or music entertainment
21 events - Sale in excess of regular price.

22 (a)(1) It shall be unlawful for any person, corporation, firm, or
23 partnership to sell or offer for sale any ticket to:

24 (A) High school or college athletic events or to athletic
25 and other events held for the benefit of charity at a greater price than that
26 printed on the ticket; or

27 (B) Any music entertainment events at a greater price than
28 that printed on the ticket or the box office sale price plus any reasonable
29 charge for handling or credit card use, whichever is the greater.

30 (2) This subsection shall not apply to institutions of higher
31 education which receive funds per ticket above the face value of that ticket.

32 (b) Any person, persons, corporation, firm, or partnership violating
33 any provision of this section shall be guilty of a ~~misdemeanor~~ violation and
34 upon conviction shall be fined in any sum not less than twenty-five dollars
35 (\$25.00) nor more than five hundred dollars (\$500), and every such sale or
36 offer for sale shall be a separate offense.

1
2 5-63-202. Requiring borrower to pay contribution to substitute one
3 insurance policy for another.

4 (a) No person, firm, or corporation engaged in the business of
5 financing the purchase of real or personal property or of lending money on
6 the security of real or personal property and no trustee, director, officer,
7 agent, or other employee of any such person, firm, or corporation shall
8 directly or indirectly require that a borrower pay a consideration of any
9 kind to substitute the insurance policy of one (1) insurer for that of
10 another.

11 (b) Any violation of the provisions of this section shall constitute a
12 ~~misdemeanor~~ violation, and upon conviction the violator shall be fined in any
13 sum not less than one hundred dollars (\$100) nor more than five hundred
14 dollars (\$500) for each offense.

15
16 SECTION 54. Arkansas Code §§ 5-67-101 – 5-67-105 are amended to read
17 as follows:

18 5-67-101. Advertising signs generally.

19 (a) It shall be unlawful for any persons, firms, or corporations to
20 place any advertising signs on the highway right-of-way in this state,
21 excepting signs placed under direction of the State Highway Commission.

22 (b) Any person violating the provisions of this section or § 5-39-213
23 shall be guilty of a ~~misdemeanor~~ violation and on conviction shall be fined
24 in any sum not less than twenty-five dollars (\$25.00) nor more than one
25 hundred dollars (\$100).

26
27 5-67-102. False or misleading signs.

28 (a) It shall be unlawful for any person, firm, or corporation to erect
29 or cause to be erected or maintained, on or within one hundred yards (100
30 yds.) of the right-of-way of any state highway, any sign or billboard which
31 has printed, painted, or otherwise placed thereon, words or figures
32 calculated to cause the traveling public of this state or tourists from other
33 states to abandon state highways and travel any public road to any town,
34 city, or destination in this state unless the sign or billboard shall be
35 erected and maintained by and with the consent and approval of the State
36 Highway Commission.

1 (b) It shall be unlawful for any person, firm, or corporation to erect
2 or cause to be erected on or within one hundred yards (100 yds.) of the
3 right-of-way of any state highway any sign or billboard which has printed,
4 painted, or otherwise placed thereon, words or figures which give to the
5 traveling public any false or misleading information pertaining to the
6 highways of this state.

7 (c) Any person, firm, or corporation violating the provisions of this
8 section shall be deemed guilty of a ~~misdemeanor~~ violation and upon conviction
9 shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more
10 than one hundred dollars (\$100).

11 (d) The State Highway Commission shall cause the removal and
12 destruction of, and it is made the duty of the commission to remove and
13 destroy, any and all signboards now on or within one hundred yards (100 yds.)
14 of the right-of-way of any state highway, which give to the traveling public
15 any false and misleading information pertaining to the highways of this
16 state.

17
18 5-67-103. Attaching signs to utility poles or living plants.

19 (a) It shall be unlawful for any person, firm, corporation, or
20 association to nail, staple, or otherwise attach or cause to be nailed,
21 stapled, or otherwise attached, any sign, poster, or billboard to any public
22 utility pole or to any living tree, shrub, or other plant located upon the
23 rights-of-way of any public road, highway, or street in this state. However,
24 this prohibition shall not apply to warning, safety, or identification signs
25 attached to public utility poles by utility companies or cooperatives.

26 (b) Any person, firm, corporation, or association violating the
27 provisions of this section shall be guilty of a ~~misdemeanor~~ violation and
28 upon conviction shall be fined not less than fifty dollars (\$50.00) nor more
29 than five hundred dollars (\$500), and each day that any such violation shall
30 continue shall constitute a separate offense.

31
32 5-67-104. Violation of posted bridge prohibitions.

33 (a) It shall be unlawful for any person owning or operating a motor
34 vehicle which shall in any way exceed or violate any properly posted
35 limitations, regulations, or restrictions governing the use of a bridge
36 structure to use the structure as long as such use shall violate any of the

1 posted prohibitions.

2 (b) Any unlawful action resulting in a violation of the provisions of
3 subsection (a) of this section shall be a ~~misdemeanor~~ violation, and any
4 person convicted thereof shall be punished by fine of not more than two
5 hundred dollars (\$200), and the person shall be liable for the costs to
6 restore the damage and injury to the structure occasioned by the violation.

7

8 5-67-105. Wreckage near memorial highway.

9 (a) If any person or corporation shall store wrecked, worn out, or
10 discarded automobiles, or other scrap iron or steel within two hundred yards
11 (200 yds.) of any public highway in the State of Arkansas, a part of which
12 has been or may be designated by law as a memorial highway, it shall be ~~his~~
13 ~~or its~~ the person's or corporation's duty to construct a solid fence or wall
14 high enough to hide them from persons passing along the memorial highway or
15 to hide them behind some house or other structure or elevation of the land
16 that will conceal them from public view of those passing along the highway.

17 (b) Any person failing to comply with the provisions of this section
18 is guilty of a violation and shall be fined five dollars (\$5.00) for each day
19 in which he or she fails to comply, with the fine to go to the local school
20 district in which the site of the violation is located.

21

22 SECTION 55. Arkansas Code § 5-68-202 is amended to read as follows:

23 5-68-202. Sale or possession of literature rejected by U.S. mails.

24 (a) It shall be unlawful for any person, firm, or corporation to sell
25 or to offer for sale, or to have in possession, any magazine, paper, or other
26 literature or printed book, picture, or matter, the shipment or
27 transportation of which has been refused and rejected from the United States
28 mails, or which literature or literature of like character the Government of
29 the United States will not permit to be sold, shipped, or handled.

30 (b) Any violation of the provisions of this section shall constitute a
31 ~~misdemeanor~~ violation and, upon conviction, shall subject the offender to a
32 fine of any sum not less than fifty dollars (\$50.00) nor more than one
33 hundred dollars (\$100), and each day that this section shall be violated
34 shall constitute a separate offense.

35

36 SECTION 56. Arkansas Code § 5-69-102 is amended to read as follows:

1 5-69-102. Carbon black.

2 (a) The use of natural gas within the State of Arkansas for the
3 purpose of obtaining the carbon black content by the process of burning is
4 prohibited.

5 (b) The erection, enlargement, maintenance, and operation of any plant
6 in Arkansas for the purpose of burning natural gas to obtain therefrom the
7 carbon black content is prohibited within this state.

8 (c) No person, firm, or corporation owning or operating any gas well
9 within this state shall use any part of the gas produced, from any such well
10 for the purpose of obtaining the carbon black content thereof by the process
11 of burning, nor shall any such person, firm, or corporation so owning or
12 operating the well sell or deliver any part of the gas to any other person,
13 firm, or corporation for use by the person, firm, or corporation in obtaining
14 the carbon black content thereof by the process of burning such gas.

15 (d) The erection, maintenance, or operation of any such carbon black
16 plant in violation of this section or the use, sale, or delivery of any such
17 natural gas from any gas well in this state, in violation of the provisions
18 of this section is declared a public nuisance, and the Attorney General and
19 the several prosecuting attorneys of this state and each of them are
20 authorized and directed to proceed in the name of the State of Arkansas, in
21 any court of competent jurisdiction by injunction, mandamus, or other
22 appropriate remedy for the abatement of any such nuisance.

23 (e) Any person, firm, or corporation violating any of the provisions
24 of this section shall be deemed guilty of a ~~misdemeanor~~ violation and on
25 conviction shall be fined in any sum not less than one thousand dollars
26 (\$1,000) nor more than ten thousand dollars (\$10,000), and each day that any
27 such plant shall be operated for the purpose of manufacturing carbon black,
28 or each day that any gas shall be used, sold, or delivered from any gas well
29 in violation of the provisions of this section shall be deemed a separate
30 offense.

31 (f) Nothing in this section shall be construed as prohibiting the use
32 of casing-head gas, produced from any oil well, in the manufacture of carbon
33 black.

34

35 SECTION 57. Arkansas Code § 5-72-108 is amended to read as follows:

36 5-72-108. Injuring or destroying bridges, dams, levees, or

1 embankments.

2 Every person who shall willfully and maliciously cut down, break,
3 injure, or destroy any bridge, mill-dam or other dam, or levee erected or
4 constructed to create hydraulic power, or to prevent the overflow of lands,
5 or any embankment necessary to support the dam or levee, or shall make or
6 cause to be made any aperture in the dam or embankment, with intent to
7 destroy or injure the dam or embankment, shall be deemed guilty of a
8 ~~misdemeanor~~ violation and on conviction shall be fined in any sum not
9 exceeding five thousand dollars (\$5,000).

10

11 SECTION 58. Arkansas Code § 6-2-111 is amended to read as follows:

12 6-2-111. Degrees, diplomas, and honors.

13 (a) All institutions incorporated as colleges or universities shall
14 have power to confer the customary degrees and grant the usual diplomas and
15 honors conferred by reputable institutions of like grade.

16 (b)(1) No degree or diploma of any kind shall be conferred by any
17 institution of higher education that has not been incorporated in the manner
18 provided by law.

19 (2) No institution of higher education shall confer degrees upon
20 students for mere correspondence courses or upon any student who has not
21 studied in residence at the institution for one (1) scholastic year.

22 (3) No purely honorary degree shall be conferred except by
23 institutions of higher education maintaining standard collegiate or
24 university courses with at least six (6) full professors and a body of
25 genuine college or university students in residence.

26 (c) Any president, professor, or other officer of any institution of
27 higher education who shall violate the provisions of subsection (b) of this
28 section shall be deemed guilty of a ~~misdemeanor~~ violation and upon conviction
29 shall be fined in any sum not less than fifty dollars (\$50.00) nor more than
30 one thousand dollars (\$1,000), and it is made the duty of the Arkansas Higher
31 Education Coordinating Board to enforce this section.

32

33 SECTION 59. Arkansas Code § 6-10-102 is amended to read as follows:

34 6-10-102. Penalty.

35 Any officer or employee of the State Board of Education, county board
36 of education, or school district board of directors who shall willfully fail

1 or refuse to comply with any provisions of the School Law for which no
2 punishment is otherwise provided by law shall be deemed guilty of a
3 ~~misdemeanor~~ violation and shall be fined in any sum not less than ten dollars
4 (\$10.00) nor more than five hundred dollars (\$500).

5
6 SECTION 60. Arkansas Code § 6-11-119 is amended to read as follows:

7 6-11-119. Correspondence courses.

8 (a) The State Board of Education shall promulgate reasonable rules,
9 regulations, and standards for the accreditation of persons, firms, schools,
10 or educational institutions offering correspondence courses to the people of
11 this state and may grant certificates of approval to those persons, firms,
12 schools, or educational institutions offering correspondence courses which
13 meet the approval of its rules, regulations, and standards.

14 (b) It shall be unlawful for any person, firm, school, or educational
15 institution to advertise by newspaper, magazine, pamphlet, handbill, or other
16 printed method published in this state, or by radio or by television in this
17 state, the offering of any correspondence courses unless that person, firm,
18 school, or educational institution shall have first registered with the board
19 and shall have been approved by the board as an accredited correspondence
20 school.

21 (c) The provisions of this section shall be applicable to all schools
22 or educational institutions offering correspondence courses whether the
23 schools are located in this state or in some other state. However, these
24 provisions shall not apply to those schools or educational institutions
25 regulated by the State Board of Private Career Education or by the Arkansas
26 Higher Education Coordinating Board.

27 (d) Any person violating this section shall be guilty of a ~~misdemeanor~~
28 violation and upon conviction shall be fined in the sum of not less than two
29 hundred fifty dollars (\$250) and not more than five hundred dollars (\$500).

30
31 SECTION 61. Arkansas Code § 6-16-104 is amended to read as follows:

32 6-16-104. Basic language of instruction.

33 (a) The basic language of instruction in the public school branches in
34 all the schools of the state, public and private, shall be the English
35 language only.

36 (b) It shall be the duty of the Director of the Department of

1 Education, the Director of the Department of Workforce Education, and city
2 superintendents to see that the provisions of this section are carried out.

3 (c) Any person violating the provisions hereof shall be deemed guilty
4 of a ~~misdemeanor~~ violation and upon conviction shall be fined not to exceed
5 twenty-five dollars (\$25.00), payable into the general school fund of the
6 county.

7 (d) Each day this violation occurs shall be considered a separate
8 offense.

9

10 SECTION 62. Arkansas Code § 6-17-101 is amended to read as follows:

11 6-17-101. Certificate of health - Tuberculosis tests.

12 (a)(1) Every newly hired public school employee within this state,
13 prior to beginning employment each school year, shall present to the
14 secretary of the board of directors of the employing district a certificate
15 of health dated not more than ninety (90) days prior to the date of its
16 presentation stating that the employee is free from tuberculosis.

17 (2) The status of the individual regarding possible tuberculosis
18 infection must be determined by a method prescribed by regulation of the
19 State Board of Health, and reactors must undergo sufficient additional tests
20 prescribed by regulation of the board and shall be scheduled for a periodic
21 reexamination according to their risk status.

22 (3) Certificates of health stating that public school employees
23 are free from tuberculosis infection may be issued by a regularly licensed
24 physician or regularly constituted health authority, but interpretation of
25 any X ray film must be made by a competent roentgenologist or physician
26 experienced in tuberculosis.

27 (b) All school cafeteria employees and other school employees handling
28 food shall comply with the same health requirements imposed upon employees of
29 restaurants and other food service establishments in the State of Arkansas.

30 (c) Any teacher or other school employee or member of a school board
31 within this state violating the terms of this section shall be deemed guilty
32 of a ~~misdemeanor~~ violation and upon conviction be fined not less than twenty-
33 five dollars (\$25.00) nor more than one hundred dollars (\$100).

34

35 SECTION 63. Arkansas Code § 6-17-106 is amended to read as follows:

36 6-17-106. Insult or abuse of teacher.

1 (a)(1) It is unlawful during regular school hours and in a place where
2 a public school employee is required to be in the course of his or her
3 duties, for any person to address a public school employee using language
4 which in its common acceptance is calculated to:

5 (A) Cause a breach of the peace;

6 (B) Materially and substantially interfere with the
7 operation of the school; or

8 (C) Arouse the person to whom it is addressed to anger to
9 the extent likely to cause imminent retaliation.

10 (2) A person who violates this section shall be guilty of a
11 ~~misdemeanor~~ violation and upon conviction be liable for a fine of not less
12 than one hundred dollars (\$100) nor more than one thousand five hundred
13 dollars (\$1,500).

14 (b) Each school district shall report to the Department of Education
15 any prosecutions within the school districts under this section.

16
17 SECTION 64. Arkansas Code § 6-18-202 is amended to read as follows:

18 6-18-202. Age and residence for attending public schools.

19 (a) For purposes of this section:

20 (1) "Reside" means to be physically present and to maintain a
21 permanent place of abode for an average of no fewer than four (4) calendar
22 days and nights per week for a primary purpose other than school attendance;

23 (2) "Resident" means a student whose parents, legal guardians,
24 persons having legal, lawful control of the student under order of a court,
25 or persons standing in loco ~~parentis~~ parentis reside in the school district;
26 and

27 (3) "Residential address" means the physical location where the
28 student's parents, legal guardians, persons having legal lawful control of
29 the student under order of a court, or persons standing in loco parentis
30 reside.

31 (b)(1) The public schools of any school district in this state shall
32 be open and free through completion of the secondary program to all persons
33 in this state between the ages of five (5) and twenty-one (21) years whose
34 parents, legal guardians, or other persons having lawful control of the
35 person under an order of a court reside within the school district and to all
36 persons between those ages who have been legally transferred to the district

1 for education purposes.

2 (2) For purposes of this section, a student may use the
3 residential address of a legal guardian, person having legal lawful control
4 of the student under order of a court, or person standing in loco parentis
5 only if the student resides at the same residential address and if the
6 guardianship or other legal authority is not granted solely for educational
7 needs or school attendance purposes.

8 (3) Any school district may require a parent, legal guardian, or
9 other person in loco parentis who enrolls a ~~student~~ student in a school
10 district to sign a statement under oath attesting to his or her residential
11 address or to provide other proof that a student is a resident of the school
12 district as defined by this section.

13 (c) Any person eighteen (18) years of age or older may establish a
14 residence separate and apart from his or her parents or guardians for school
15 attendance purposes.

16 (d) In order for a person under the age of eighteen (18) years to
17 establish a residence for the purpose of attending the public schools
18 separate and apart from his or her parents, guardians, or other persons
19 having lawful control of him or her under an order of a court, the person
20 must actually reside in the district for a primary purpose other than that of
21 school attendance.

22 (e)(1) Any school district which admits for ten (10) school days or
23 more a student the school district knows or should have known is a resident
24 of another school district not included in a tuition agreement or is not
25 officially transferred to it shall be liable to the resident district of the
26 student for an amount of money equal to the state equalization funding per
27 student the complainant district would have received or seven hundred fifty
28 dollars (\$750) per year, whichever is greater.

29 (2) Notice to a school district by a complainant school district
30 that a student is attending illegally in the school district begins the
31 running of the ten-day time period.

32 (3) Causes of action arising under this subsection (e) may be
33 brought in a court of competent jurisdiction.

34 (4) The school district which admits the student shall have the
35 burden of proof as to the student's residency.

36 (5) Upon presentation of a court order or judgment finding that

1 a school district has admitted for ten (10) school days or more a student the
2 district should have known was a resident of another district, as set forth
3 in subdivision (e)(1) of this section, the Department of Education will
4 satisfy the defendant school district's liability by transferring to the
5 complainant school district the appropriate amount of funds from state aid
6 which the department would have distributed to the defendant school district.
7 Such transfer will be made from the next payment due to the district from the
8 department after the order is received by the department.

9 (f) Any person who knowingly gives a false residential address for
10 purposes of public school enrollment is guilty of a ~~misdemeanor~~ violation and
11 subject to a fine not to exceed five hundred dollars (\$500).

12 (g) This section shall not be construed to restrict a student's
13 ability to participate in a tuition agreement with a nonresident school
14 district or to officially transfer to another school district pursuant to the
15 Arkansas Public School Choice Act of 1989, § 6-18-206.

16
17 SECTION 65. Arkansas Code § 6-18-219 is amended to read as follows:

18 6-18-219. False attendance reports.

19 Any teacher, principal, superintendent, or any other person whose duty
20 it is to make reports as to the schools of the county who shall make a false
21 report to the State Board of Education as to the number of children
22 enumerated, the number enrolled in school, or the number in average daily
23 attendance in the schools shall be:

24 (1) Guilty of a ~~misdemeanor~~ violation, punishable by a fine not
25 to exceed one hundred dollars (\$100) payable into the general school fund of
26 the county; and

27 (2) Liable personally for any loss of revenue which the district
28 or state sustains as a result of the false report.

29
30 SECTION 66. Arkansas Code § 6-18-602 is amended to read as follows:

31 6-18-602. Penalty.

32 Any person, firm, or corporation violating any of the provisions of
33 this subchapter shall be guilty of a ~~misdemeanor~~ violation and upon
34 conviction shall be fined not less than twenty-five dollars (\$25.00) nor more
35 than one hundred dollars (\$100) for each and every offense.

36

1 SECTION 67. Arkansas Code § 6-19-119 is amended to read as follows:

2 6-19-119. School bus passengers required to be seated.

3 (a) As used in this section, "school bus" ~~shall mean~~ means any vehicle
4 being used to convey children to and from school that is marked in both front
5 and rear with the words "SCHOOL BUS" in plain lettering readable in daylight
6 at a distance of at least two hundred feet (200') from the vehicle.

7 (b) The driver of a school bus shall not operate the school bus until
8 every passenger is seated.

9 (c)(1) The superintendent of each public school in this state shall be
10 responsible for ensuring that no school bus is scheduled to transport more
11 students than can be reasonably seated in the school bus.

12 (2) Any superintendent who knowingly violates subdivision (c)(1)
13 of this section shall be guilty of a ~~misdemeanor~~ violation and upon
14 conviction shall be fined not less than fifty dollars (\$50.00) nor more than
15 one hundred dollars (\$100).

16
17 SECTION 68. Arkansas Code § 6-21-106 is amended to read as follows:

18 6-21-106. Fire hazards inspection prior to closing for breaks.

19 (a)(1) At least seven (7) calendar days prior to the beginning of
20 Christmas break, the school superintendent of each public elementary and
21 secondary school in this state shall request an inspection of the premises by
22 the fire department providing fire protection to the school buildings. If the
23 chief executive officer of the fire department receives the request at least
24 seven (7) calendar days prior to the beginning of Christmas break, he shall
25 cause the school buildings to be inspected for fire hazards. The inspection
26 shall be conducted prior to the beginning of Christmas break.

27 (2) At least seven (7) calendar days prior to the end of the
28 school year, the school superintendent of each public elementary and
29 secondary school in this state shall request an inspection of the premises by
30 the fire department providing fire protection to the school buildings. If the
31 chief executive officer of the fire department receives the request at least
32 seven (7) calendar days prior to the end of the school year, he shall cause
33 the buildings to be inspected for fire hazards. The inspection shall occur
34 prior to the end of the school year.

35 (3) The chief executive officer of the fire department shall
36 file a written report of the inspection with the superintendent within seven

1 (7) calendar days after the inspection.

2 (4) The inspection shall be at no cost to the school.

3 (5) The superintendent shall file a written report with the
4 chief executive officer of the fire department within seven (7) calendar days
5 after receiving the inspection report.

6 (6) The superintendent's report shall indicate what action was
7 taken or will be taken in response to the inspection by the chief executive
8 officer of the fire department.

9 (b) Any person who intentionally violates this section shall be deemed
10 guilty of a ~~misdemeanor~~ violation and subject to a fine not to exceed one
11 hundred dollars (\$100).

12

13 SECTION 69. Arkansas Code §§ 6-21-605 – 6-21-607 are amended to read
14 as follows:

15 6-21-605. Injury to schoolhouse or fixtures.

16 (a) To cut, write upon, deface, disfigure, or damage any part or
17 appurtenance or enclosure of any schoolhouse shall be a ~~misdemeanor~~ violation
18 punishable by a fine not exceeding one hundred dollars (\$100).

19 (b) Any fine collected under this act for injury to any schoolhouse or
20 other school property shall be paid into the school funds of the district
21 where the crime was committed.

22

23 6-21-606. Annoying conduct by trespassers.

24 Any persons who shall, by any boisterous or other conduct, disturb or
25 annoy any public or private school in this state or any person not a student
26 who, after being notified to keep off the school grounds during the school
27 hours by the board of directors, the superintendent, or principal teacher in
28 charge of any such school, shall continue to trespass on or go upon the
29 grounds, whether at recess or during the sessions of the school, shall be
30 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any
31 sum not exceeding one hundred dollars (\$100), payable into the general school
32 fund of the county.

33

34 6-21-607. Loitering on or near school grounds - Penalty.

35 (a) Any person who shall loiter upon or near the school grounds of any
36 public or private school during school hours, or at any school-sponsored

1 activity such as ball games, dances, and other school-sponsored activities
2 after regular school hours, without any lawful business or purpose shall be
3 guilty of a ~~misdemeanor~~ violation and, upon conviction, shall be subject to a
4 fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty
5 dollars (\$250).

6 (b)(1) Nothing in this section shall be construed to prohibit any
7 person who has a legitimate reason to visit any school from visiting it.

8 (2) If a person wishes to visit on the school grounds or in the
9 school building, that person shall present himself to the office of the
10 school and receive both permission to visit and a pass to indicate that
11 proper permission has been granted.

12 (3) Failure to request and receive permission as herein provided
13 shall be considered a violation of this section.

14 (4) As used in this section, "loiter" means the hanging around
15 or lingering upon the grounds of any public school of this state, or within
16 one hundred feet (100') of the grounds of any public school in this state,
17 unless any such person is on his own property, walking or driving to some
18 destination other than the school grounds, transacting some lawful business
19 at a business establishment located near the school grounds, or has
20 meaningful business to transact at such school.

21
22 SECTION 70. Arkansas Code § 6-21-609 is amended to read as follows:

23 6-21-609. Prohibition against smoking or use of tobacco or tobacco
24 products - Exception.

25 (a) Smoking or use of tobacco or products containing tobacco in any
26 form in or on any property owned or leased by a public school district,
27 including school buses, is prohibited.

28 (b) A copy of this statute shall be posted in a conspicuous location
29 at every entrance to each building owned or leased by a public school
30 district and every school bus used to transport public school students.

31 (c) Any person violating the provisions of this section shall be
32 guilty of a ~~misdemeanor~~ violation and, upon conviction thereof, shall be
33 punished by a fine of not less than ten dollars (\$10.00) nor more than one
34 hundred dollars (\$100).

35
36 SECTION 71. Arkansas Code § 6-43-105 is amended to read as follows:

1 6-43-105. Attendance - Enforcement.

2 (a) Every parent, guardian, or other person having control of any
3 mentally normal minor over eight (8) years of age who is defective in hearing
4 or sight to the extent that he cannot be ~~benefitted~~ benefited by instruction
5 in the public schools shall be required to send such minor to the Arkansas
6 School for the Deaf or the Arkansas School for the Blind at Little Rock.

7 (b) The minor shall continue to attend the schools for a term of at
8 least thirty-two (32) weeks each year until he or she has completed the
9 course of instruction prescribed for the schools by the board of trustees, or
10 any other body or person designated by law to have control of the schools,
11 respectively, or until he or she has been discharged by the superintendent of
12 the school.

13 (c) The deaf or blind minor shall be exempt from attendance at the
14 schools for any of the following reasons:

15 (1) Instruction by a private tutor or in another school approved
16 by the board of trustees, or any other body or person designated by law to
17 have control of the schools, for a time equal to that required by subsection
18 (b) of this section;

19 (2) Physical incapacity for school work; or

20 (3) Any other reason deemed good and sufficient by the
21 superintendent of the school, with the approval of the board of trustees.

22 (d) Failure for a period of one (1) week within the school year to send
23 such minor to school shall constitute an offense, provided that the time
24 necessary for such minor to travel from his home to Little Rock shall not be
25 counted as time absent from school.

26 (e) Any person who induces or attempts to induce such deaf or blind
27 minor to absent himself or herself from school or who employs or harbors such
28 minor unlawfully while said schools are in session shall be guilty of a
29 ~~misdemeanor~~ violation and upon conviction shall be fined not less than twenty
30 dollars (\$20.00) nor more than fifty dollars (\$50.00) for each offense.

31 (f) It shall be the duty of county boards, or the boards' designees,
32 school attendance officers, prosecuting attorneys, and any special attendance
33 officers appointed by the Arkansas School for the Deaf and the Arkansas
34 School for the Blind, as well as all peace officers, to enforce the
35 provisions of this section.

36 (g) Any parent, guardian, or other person in charge of such minor or

1 minors who fails or refuses to comply with the requirements of this section
2 shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined
3 not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for
4 each offense.

5
6 SECTION 72. Arkansas Code § 6-64-1001 is amended to read as follows:

7 6-64-1001. Penalty.

8 Any officer or employee who shall violate any of the provisions of §§
9 6-64-213, 6-64-1005 - 6-64-1009 shall be guilty of a violation and fined any
10 sum not less than one hundred dollars (\$100) nor more than one thousand
11 dollars (\$1,000) and immediately removed from office.

12
13 SECTION 73. Arkansas Code § 6-65-107 is amended to read as follows:

14 6-65-107. Faculty and employees.

15 (a)(1) The faculty of each school shall consist of a principal, who
16 shall be a graduate of some reputable college or university; one (1)
17 instructor in stock raising and dairying; a competent textile instructor; and
18 assistants as may be necessary. The trustees may combine the duties of any
19 two (2) of the above when practicable.

20 (2)(A) It shall be unlawful for the board of trustees of any of
21 the schools to employ as teachers of the natural and domestic sciences any
22 other than graduates of agricultural colleges or colleges of domestic
23 science.

24 (B) Any member of the board of trustees violating this
25 subdivision shall be guilty of a ~~misdemeanor~~ violation and upon conviction
26 shall be fined not less than two hundred fifty dollars (\$250) nor more than
27 five hundred dollars (\$500) and shall be removed from office by the Governor.

28 (b)(1) The board of trustees of any of the agricultural schools shall
29 not employ anyone related by consanguinity or affinity within the fourth
30 degree to any trustee.

31 (2) Any member of the board of trustees violating any of the
32 provisions of this subsection shall be deemed guilty of a ~~misdemeanor~~
33 violation and upon conviction shall be fined in any sum not less than two
34 hundred fifty dollars (\$250) nor more than five hundred dollars (\$500) and
35 subject to removal by the Governor.

36 (c) All persons, including the principal, instructors, and other

1 employees, except those participating in the student labor funds, shall be
2 paid by warrants drawn monthly against the Auditor of State on funds
3 appropriated for that purpose.
4

5 SECTION 74. Arkansas Code § 7-9-102 is amended to read as follows:

6 7-9-102. Duties of election officers - Penalty for failure to perform.

7 (a) The duties imposed by this act upon members of the State Board of
8 Election Commissioners and county boards of election commissioners, election
9 officials, and all other officers expressly named in this act are declared to
10 be mandatory. These duties shall be performed in good faith within the time
11 and in the manner provided.

12 (b)(1) If any member of any board, any election official, or any other
13 officer so charged with the duty shall knowingly and willfully fail or refuse
14 to perform his or her duty or shall knowingly and willfully commit a fraud in
15 evading the performance of his or her duty, then he or she shall be deemed
16 guilty of a ~~misdemeanor~~ violation.

17 (2) Upon conviction, he or she shall be fined any sum not less
18 than one hundred dollars (\$100) nor more than one thousand dollars (\$1000)
19 and also shall be removed from office.
20

21 SECTION 75. Arkansas Code § 12-12-103 is amended to read as follows:

22 12-12-103. Pawnshop records - Penalty.

23 (a) It shall be the duty of each and every pawnshop and pawnbroker
24 doing business in the State of Arkansas to keep a record showing in detail
25 all property pawned with them.

26 (b)(1) The records required under subsection (a) of this section shall
27 include:

28 (A) A detailed record of each and every transaction,
29 including the type of identification displayed by the person from whom the
30 property was received;

31 (B) The name, address, race, sex, height, weight, and date
32 of birth of the person from whom the property was received;

33 (C) The driver's license number, personal identification
34 number issued under § 27-16-805, or the number from some other form of
35 photographic identification of the person from whom the property was
36 received; and

1 (D) A description of each item pawned, including, but not
2 limited to, identifying numbers or serial numbers.

3 (2) The records shall be maintained on the following form:
4

5	"Ticket _____	Description _____
6	Owner _____	D.O.B. _____
7	Address _____	Race _____
8	DL#, ID# or SS# _____	Sex _____
9	Article _____	Ht. _____
10	Serial # _____	Wt. _____"

11 (c)(1) One (1) copy of the records required under subsection (a) of
12 this section shall be maintained on file with the pawnshop or pawnbroker for
13 a period of three (3) years. The Director of the Department of Arkansas State
14 Police, any member of the Department of Arkansas State Police, any sheriff or
15 deputy of the county, or any police officer of the municipality in which the
16 pawnshop or pawnbroker is located shall have access to all such records at
17 any and all reasonable times.

18 (2) The director, the county sheriff, or the chief of police in
19 any county or municipality in which the pawnshop is located may require a
20 report of such transactions for such periods of time as he or she shall deem
21 necessary for the efficient enforcement of the criminal laws or to aid in
22 criminal investigations.

23 (d)(1) The failure on the part of any pawnbroker, owner, or operator
24 of a pawnshop to comply with the provisions of this section shall be deemed a
25 ~~misdemeanor~~ violation. Upon conviction the offender shall be punished by a
26 fine of not more than one thousand dollars (\$1,000).

27 (2) Each day a pawnbroker, owner, or operator fails to comply
28 with the provisions of this section shall be deemed to constitute a separate
29 offense and shall be punished accordingly.
30

31 SECTION 76. Arkansas Code § 12-12-601 is amended to read as follows:
32 12-12-601. Penalty.

33 Any person violating any provision of this subchapter shall be deemed
34 guilty of a ~~misdemeanor~~ violation and shall be fined in any amount not less
35 than ten dollars (\$10.00) nor more than one hundred dollars (\$100).
36

1 SECTION 77. Arkansas Code § 12-13-103 is amended to read as follows:
2 12-13-103. Officer's neglect of duty - Penalty.

3 (a) Any officer referred to in this subchapter who neglects to comply
4 with any of the requirements of this subchapter shall be guilty of a
5 ~~misdemeanor~~ violation.

6 (b) Upon conviction the officer shall be punished by a fine of not
7 less than twenty-five dollars (\$25.00) nor more than one hundred dollars
8 (\$100) for each neglect or violation ~~and in default of the payment thereof~~
9 ~~shall be imprisoned not to exceed thirty (30) days~~.

10
11 SECTION 78. Arkansas Code § 12-29-113 is amended to read as follows:
12 12-29-113. Notice of escape to law enforcement officers - Penalty.

13 (a)(1) Whenever any inmate of the Department of Correction shall
14 escape from its custody, it will be the duty of the Director of the
15 Department of Correction or his or her designee to immediately notify the
16 appropriate law enforcement officers in the area where the escape took place.

17 (2) Notification of law enforcement officers in other areas of
18 the state as well as surrounding states will be made as deemed necessary by
19 the department.

20 (b) A violation of any of the provisions of this section shall be a
21 ~~misdemeanor~~ violation and shall be punished by a fine of not less than ten
22 dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

23
24 SECTION 79. Arkansas Code § 12-80-106 is amended to read as follows:
25 12-80-106. Violations and penalties.

26 (a) Any owner knowingly constructing a public building within this
27 state without complying with the provisions of this chapter shall be guilty
28 of a ~~Class A misdemeanor~~ violation and shall, upon conviction, be sentenced
29 to pay a fine of not less than one thousand dollars (\$1,000).

30 (b) Each day of such unlawful construction practice shall constitute a
31 distinct and separate offense.

32
33 SECTION 80. Arkansas Code § 13-2-101 is amended to read as follows:
34 13-2-101. Failure to return books or pay replacement costs.

35 (a)(1) It is unlawful for any person who checks out or otherwise
36 removes any books or other materials from any library owned by the state or

1 any city, county, or other political subdivision of the state to fail or
2 refuse to return those books or materials to the library or to pay the
3 replacement costs of lost books and library materials within the time
4 prescribed by the library rules.

5 (2) However, before a charge of violating the provisions of this
6 section shall be filed against any person, the library shall send written
7 notice, by ordinary mail, addressed to the last known address of the person
8 who checked out or otherwise removed the books or materials from the library,
9 notifying the person that if the books or materials are not returned to the
10 library within thirty (30) days from the date of the notice, charges will be
11 filed against the person under the provisions of this section and upon
12 conviction, such person may be fined in an amount as provided in this
13 section.

14 (b) Any person violating the provisions of this section shall be
15 guilty of a violation and subject to a fine of not less than ten dollars
16 (\$10.00) nor more than one hundred dollars (\$100), and each violation of this
17 section shall constitute a separate offense.

18

19 SECTION 81. Arkansas Code § 16-17-221 is amended to read as follows:

20 16-17-221. Improper use of process - Granting privileges - Failure to
21 report or pay over fines - Penalty.

22 Any district judge who makes use, directly or indirectly, of the
23 process of his or her own court, either as a party litigant or in interest or
24 as an attorney or agent for any party litigant or in interest, or who offers
25 or gives by way of remission of fees or otherwise any pecuniary inducements
26 to the instituting or maintaining of any suits, prosecutions, or proceedings
27 in his or her court, and any sheriff, constable, police chief, or district
28 court clerk who fails to report or pay over fines, penalties, forfeitures,
29 fees, or costs collected by him or her, shall be deemed guilty of a
30 ~~misdemeanor~~ violation and, upon conviction for each of such offenses, shall
31 be punished by a fine of not less than fifty dollars (\$50.00) nor more than
32 five hundred dollars (\$500). A conviction under this section shall work a
33 forfeiture of office. Notwithstanding any other provision of this section,
34 sheriffs and constables may retain the fees and costs due them out of each
35 cause.

36

1 SECTION 82. Arkansas Code §§ 16-22-211 and 16-22-212 are amended to
2 read as follows:

3 16-22-211. Corporations or associations - Practice of law or
4 solicitation prohibited - Exceptions - Penalty.

5 (a) It shall be unlawful for any corporation or voluntary association
6 to practice or appear as an attorney at law for any person in any court in
7 this state or before any judicial body, to make it a business to practice as
8 an attorney at law for any person in any of the courts, to hold itself out to
9 the public as being entitled to practice law, to tender or furnish legal
10 services or advice, to furnish attorneys or counsel, to render legal services
11 of any kind in actions or proceedings of any nature or in any other way or
12 manner, or in any other manner to assume to be entitled to practice law or to
13 assume or advertise the title of lawyer or attorney, attorney at law, or
14 equivalent terms in any language in such manner as to convey the impression
15 that it is entitled to practice law, or to furnish legal advice, service, or
16 counsel, or to advertise that either alone or together with or by or through
17 any person, whether a duly and regularly admitted attorney at law or not, it
18 has, owns, conducts, or maintains a law office or any office for the practice
19 of law, or for furnishing legal advice, services, or counsel.

20 (b) It shall also be unlawful for any corporation or voluntary
21 association to solicit itself by or through its officers, agents, or
22 employees, any claim or demand for the purpose of bringing an action thereon
23 or of representing as attorney at law or for furnishing legal advice,
24 services, or counsel to, a person sued or about to be sued in any action or
25 proceeding or against whom an action or proceeding has been or is about to be
26 brought, or who may be affected by any action or proceeding which has been or
27 may be instituted in any court or before any judicial body, or for the
28 purpose of so representing any person in the pursuit of any civil remedy.

29 (c) The fact that any officer, trustee, director, agent, or employee
30 shall be a duly and regularly admitted attorney at law shall not be held to
31 permit or allow any such corporation or voluntary association to do the acts
32 prohibited in this section nor shall that fact be a defense upon the trial of
33 any of the persons mentioned for a violation of the provisions of this
34 section.

35 (d) This section shall not apply to a corporation or voluntary
36 association lawfully engaged in the examination and insuring of titles to

1 real property, nor shall it prohibit a corporation or a voluntary association
2 from employing an attorney or attorneys in and about its own immediate
3 affairs or in any litigation to which it is or may become a party.

4 (e) Nothing contained in this section shall be construed to prevent a
5 corporation from furnishing to any person, lawfully engaged in the practice
6 of law, such information or such clerical services in and about his
7 professional work as, except for the provisions of this section, may be
8 lawful, if at all times the lawyer receiving such information or such
9 services shall maintain full professional and direct responsibility to his
10 clients for the information and services so received. However, no corporation
11 shall be permitted to render any services which cannot lawfully be rendered
12 by a person not admitted to practice law in this state, nor to solicit
13 directly or indirectly professional employment for a lawyer.

14 (f)(1) Any corporation or voluntary association violating any of the
15 provisions of this section shall be guilty of a ~~misdemeanor~~ violation and
16 punished by a fine of not less than one hundred dollars (\$100) nor more than
17 five thousand dollars (\$5,000).

18 (2) Every officer, trustee, director, agent, or employee of the
19 corporation or voluntary association who directly or indirectly engages in
20 any of the acts prohibited in this section or assists such corporation or
21 voluntary association to do such prohibited acts is guilty of a ~~misdemeanor~~
22 violation and shall be punished by a fine of not less than one hundred
23 dollars (\$100) nor more than five thousand dollars (\$5,000).

24
25 16-22-212. Disbarment in another state - Effects.

26 (a) It shall be unlawful for any person to practice law or attempt to
27 practice law in any court in this state or to solicit business as, or in any
28 manner represent himself or herself to be, an attorney at law when such
29 person so practicing or attempting to practice law or soliciting business as,
30 or representing himself or herself to be, an attorney at law has previously
31 been disbarred from the practice of law in any other state of the United
32 States of America, while a resident of that state.

33 (b)(1) No person shall be admitted to practice law in this state who
34 has been disbarred from the practice of law in any other state.

35 (2) The disbarment of any person from the practice of law in any
36 other state shall operate as a disbarment of the person from the practice of

1 law in this state under any license, permit, or enrollment issued to the
2 person by any court in this state, prior to his disbarment in the other
3 state.

4 (3) A certified copy of the order, judgment, or decree of the
5 disbarment in the other state shall be prima facie evidence of the disbarment
6 in the other state when filed in any court in this state.

7 (c) It shall be unlawful for any judge of any court of record,
8 ~~municipal district~~ judge, mayor, ~~justice of the peace~~, or other judge or
9 magistrate to knowingly permit any person to practice law or attempt to
10 practice law, or to appear in any manner as an attorney at law before him or
11 her or in his or her court in violation of any of the terms and provisions of
12 this section.

13 (d) Any person violating the terms of this section shall be guilty of
14 a ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not
15 less than five hundred dollars (\$500) and not more than one thousand dollars
16 (\$1,000). Each violation of this section shall constitute a separate offense.

17
18 SECTION 83. Arkansas Code §§ 16-66-215 and 16-66-216 are amended to
19 read as follows:

20 16-66-215. Evasion of exemption law in collection of debt - Penalty.

21 Whoever, whether principal, agent, or attorney, under the statutes of
22 this state on the subject of the exemption of property from levy and sale on
23 execution, or in attachment or garnishment, with intent to deprive any
24 resident of this state of his or her rights, sends, or causes to be sent out
25 of this state any claim for debt to be collected by proceeding in attachment,
26 garnishment, or other mesne process, when the creditor, debtor, person, or
27 corporation owing for the earnings intended to be reached by such proceedings
28 are each and all within the jurisdiction of the courts of this state, shall
29 be guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined for
30 each and every claim so sent out of this state in any sum not less than ten
31 dollars (\$10.00) nor more than fifty dollars (\$50.00).

32
33 16-66-216. Assignment or transfer of debt - Penalty for evasion.

34 Whoever, either directly or indirectly, assigns or transfers any claims
35 for debts against a citizen of this state for the purpose of having the
36 claims for debts collected by proceedings in attachment, garnishment, or

1 other process out of the wages or personal earnings of the debtor, in courts
2 outside of this state, when the creditor, debtor, person, or corporation
3 owing the money intended to be reached by the proceedings in attachment are
4 each and all within the jurisdiction of the courts of this state, shall be
5 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any
6 sum not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

7
8 SECTION 84. Arkansas Code § 16-85-408 is amended to read as follows:
9 16-85-408. Public inspection and disclosure.

10 (a) When ~~an~~ a grand jury indictment for any offense known to the laws
11 of this state shall be found against any person not in actual confinement or
12 held by recognizance to answer thereto, the indictment shall not be open to
13 the inspection of any person except the judge and clerk of the court and the
14 prosecuting attorney, until the defendant has been arrested.

15 (b)(1) No judge, clerk, prosecuting attorney, or other officer of any
16 court shall disclose the fact of any indictment being found until the
17 defendant therein has been arrested or recognized to answer the indictment.

18 (2) Any judge, clerk, or other officer violating the provisions
19 of subdivision (b)(1) of this section shall be deemed guilty of a ~~misdemeanor~~
20 violation and, on conviction, shall be fined in any sum not exceeding one
21 thousand dollars (\$1,000).

22 (c) The provisions of this section shall not extend to any officer
23 making the disclosure by the issuing, or in the execution, of any process on
24 the indictment, or in any other manner, when it shall become necessary in the
25 discharge of any official duty.

26
27 SECTION 85. Arkansas Code § 17-82-104 is amended to read as follows:
28 17-82-104. Unlawful practice.

29 (a) It is unlawful for a dentist or dental hygienist to:

30 (1)(A) Practice in the State of Arkansas under any name other
31 than his or her own true name, except a dentist may practice under a
32 corporate name that complies with the Dental Corporation Act, § 4-29-401 et
33 seq.

34 (B) A dentist or a dental corporation may practice under a
35 fictitious name if the name has been registered with and approved by the
36 Arkansas State Board of Dental Examiners. The fictitious name must comply

1 with the rules and regulations of the board and must not be false or
2 misleading to the general public; or

3 (2) Aid or assist in any manner any unlicensed person to
4 practice dentistry or dental hygiene or any branch thereof.

5 (b)(1) It is unlawful for a dentist, whether in practice as owner,
6 proprietor, manager, employee, or partner, to allow any person other than a
7 dentist licensed by the board to:

8 (A) Direct the dentist's practice; or

9 (B) Direct, participate in, or affect the diagnosis or
10 treatment of patients under the dentist's care.

11 (2) However, the phrase "any person" as used in this subsection
12 shall not apply to a patient's dental insurer or dental HMO or their
13 designated utilization review organization.

14 (c) It is unlawful for any corporation to practice dentistry or dental
15 hygiene or to hold itself out as entitled to engage therein.

16 (d)(1) A registered licensed dental hygienist working at a Department
17 of Correction facility may work under the general supervision of a licensed
18 dentist.

19 (2) "General supervision", as used in this subsection, means
20 that:

21 (A) The dentist shall establish a written office protocol
22 that specifically indicates when a hygienist may treat a patient and when a
23 patient is to be seen by a dentist;

24 (B) The hygienist shall specifically adhere to the
25 protocol for treatment developed by the dentist;

26 (C) General supervision is limited to prophylaxis,
27 application of sealant, root planing, and any duties normally assigned to
28 dental assistants;

29 (D) The dentist is to review and countersign all entries
30 made in the patient's chart by the hygienist within seven (7) working days;

31 (E) All hygienists working in a general supervision
32 capacity shall be currently certified in cardiopulmonary resuscitation; and

33 (F) The hygienist shall review a patient's dental health
34 history prior to treatment.

35 (e)(1) A person who violates any provision of this section ~~shall be~~
36 shall upon conviction be guilty of a violation and shall be fined in any sum

1 not less than fifty dollars (\$50.00) nor more than five hundred dollars
2 (\$500).

3 (2) Each day a violation continues constitutes a separate
4 offense.

5 (3) In addition to the foregoing criminal sanctions, a person
6 who violates the provisions of this section is subject to the liabilities of
7 § 17-82-301(b).

8

9 SECTION 86. Arkansas Code § 17-89-105 is amended to read as follows:
10 17-89-105. Penalties.

11 (a) Any person who violates any provision of this chapter or who,
12 other than those persons specifically excluded from the provisions of this
13 chapter, provides ophthalmic dispensing services to the public without a
14 certificate of licensure or certificate of registration under this chapter or
15 who engages in the business after his or her certificate of licensure or
16 registration has been suspended or revoked shall be guilty of a ~~misdemeanor~~
17 violation and upon conviction shall be fined not less than one hundred
18 dollars (\$100) nor more than one thousand dollars (\$1,000).

19 (b) Each day of violation shall constitute a separate offense and be
20 punishable as such.

21

22 SECTION 87. Arkansas Code § 17-90-105 is amended to read as follows:
23 17-90-105. Penalty – Injunction.

24 (a)(1) Any optometrist, physician, or surgeon or individual, firm, or
25 corporation violating any of the provisions of this chapter shall be guilty
26 of a ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not
27 less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

28 (2) Each and every day the violation continues shall constitute
29 a separate offense and be punishable as such.

30 (b)(1) The violation of any provision of this chapter may be enjoined
31 by the State Board of Optometry in the circuit courts of this state, even
32 though the violation may be punishable by fine, the intention of this chapter
33 being to provide a speedy means of protecting the public which has not
34 heretofore existed.

35 (2) The board shall not be required to execute or give a bond
36 for cost, indemnity, or stay as a condition to the issuance of a restraining

1 order or injunction, either temporary or permanent, in any court of this
2 state.

3

4 SECTION 88. Arkansas Code § 17-92-105 is amended to read as follows:
5 17-92-105. Prohibited acts – Penalties.

6 Violation of any part of this section and §§ 17-92-101(1)-(11), 17-92-
7 102, 17-92-103, 17-92-205(b), 17-92-206(b), 17-92-303, 17-92-402, 17-92-404,
8 17-92-405, 17-92-409, 17-92-410, and 17-92-411(a) not otherwise provided for
9 shall be ~~deemed a misdemeanor~~ a violation and shall be punished by a fine of
10 not less than twenty-five dollars (\$25.00) and not more than three hundred
11 dollars (\$300). Each day of violation shall constitute a separate offense.

12

13 SECTION 89. Arkansas Code § 17-92-303 is amended to read as follows:
14 17-92-303. Unlawful use of professional title – Penalty.

15 Any person who shall take, use, or exhibit the title of licensed
16 pharmacist, unless it has been regularly conferred upon him or her as set
17 forth in §§ 17-92-306 and 17-92-309, shall be guilty of a ~~misdemeanor~~
18 violation and on conviction shall be liable to a penalty of not less than
19 five dollars (\$5.00) nor more than one hundred dollars (\$100).

20

21 SECTION 90. Arkansas Code § 17-92-402 is amended to read as follows:
22 17-92-402. Licensed pharmacist required.

23 (a) It shall be unlawful for any person not a licensed pharmacist
24 within the meaning of this act to conduct any pharmacy or other facility
25 subject to this subchapter for the purpose of retailing, compounding,
26 dispensing medicines, or otherwise performing the practice of pharmacy as
27 defined in § 17-92-101 in the State of Arkansas except as provided.

28 (b) It shall be unlawful for the proprietor of a store or pharmacy or
29 other facility subject to this chapter to allow any person other than a
30 licensed pharmacist to compound or dispense the prescriptions of authorized
31 practitioners except as an aid to and under the supervision of a licensed
32 pharmacist as provided in this chapter.

33 (c) However, any person who is not a licensed pharmacist may own or
34 conduct a pharmacy or other facility as identified in § 17-92-403 if the
35 owner keeps constantly in the pharmacy or other facility a licensed
36 pharmacist subject to § 17-92-607.

1 (d) Any person violating the provisions of this act shall be deemed
2 guilty of a ~~misdemeanor~~ violation and on conviction shall be liable to a fine
3 of not less than five dollars (\$5.00) nor more than one hundred dollars
4 (\$100).

5
6 SECTION 91. Arkansas Code § 17-92-404 is amended to read as follows:
7 17-92-404. Pharmacy permit required.

8 (a) No person shall conduct any pharmacy or other facility as
9 identified in § 17-92-403 in which practitioners' prescriptions are
10 compounded and drugs are retailed or dispensed and in which a licensed
11 pharmacist-in-charge must be employed unless the pharmacy or other facility
12 as identified in § 17-92-403 has obtained a permit issued by the Arkansas
13 State Board of Pharmacy.

14 (b)(1) Keeping a pharmacy or other facility as identified in § 17-92-
15 403 where drugs and medicines or chemicals are dispensed or sold or displayed
16 for sale at retail or where prescriptions are compounded or which has on it a
17 sign using the words "pharmacist", "pharmaceutical chemist", "apothecary",
18 "pharmacy", "druggist", "drug store", "drugs", or their equivalent in any
19 language, or advertising such a store or shop as a drugstore, apothecary
20 shop, or pharmacy by any method or means shall be prima facie evidence of the
21 sale and dispensing of drugs.

22 (2) Unless the place so conducted holds a permit issued by the
23 board, it shall be unlawful for any person, firm, or corporation:

24 (A) To carry on, conduct, or transact a retail business
25 under any name that contains as a part thereof the words "drugs",
26 "drugstore", "pharmacy", "medicine", "apothecary", or "chemist shop" or any
27 abbreviation, translation, extension, or variation thereof; or

28 (B) In the operation of any pharmacy or other facility as
29 identified in § 17-92-403 in any manner by advertisement, circular, poster,
30 telephone directory listing, sign, or otherwise, to describe or refer to the
31 place of business conducted by such a person, firm, or corporation by such a
32 term, abbreviation, translation, extension, or variation.

33 (3) Any person, firm, or corporation violating this subsection
34 shall be guilty of a ~~misdemeanor~~ violation and, if a corporation, any officer
35 thereof who participates in such a violation also shall be guilty of a
36 ~~misdemeanor~~ violation and shall be punished by a fine of not less than

1 twenty-five dollars (\$25.00) and not more than three hundred dollars (\$300).

2 (c) The control of the dispensing of medicines being essential to the
3 protection of the public health and general welfare of the people, any
4 violation of subsection (b) of this section may be enjoined by action in any
5 court of competent jurisdiction at the instance of the board or of the owner
6 of any licensed pharmacy. Proceedings under this subsection shall be
7 governed by rules applicable to circuit courts.

8
9 SECTION 92. Arkansas Code § 17-97-301 is amended to read as follows:

10 17-97-301. License required.

11 (a) If any person shall practice or hold himself or herself out to the
12 public as being engaged in the practice of psychology, such as clinical,
13 consulting, industrial, personnel, or counseling psychology, and shall not
14 then possess in full force and virtue a valid license to practice as
15 psychological examiner or psychologist under the provisions of this chapter,
16 the person shall be deemed guilty of a ~~misdemeanor~~ violation.

17 (b) Upon conviction the person shall be fined not less than five
18 hundred dollars (\$500) nor more than one thousand dollars (\$1000).

19
20 SECTION 93. Arkansas Code § 18-15-607 is amended to read as follows:

21 18-15-607. Tapping of mains and supply pipes, nuisance, and pollution
22 prohibited.

23 A person shall be deemed guilty of a ~~misdemeanor~~ violation and fined
24 for each and every offense in any sum not exceeding one thousand dollars
25 (\$1,000) if the person shall:

26 (1) Tap the mains or supply pipes of any water plant or company
27 without first obtaining the permission of the proper city authorities,
28 corporation, or owner of the water plant;

29 (2) Commit nuisance in or near the impounding dams or reservoirs
30 of any water plant; or

31 (3) Pollute the water or affect its wholesome qualities.

32
33 SECTION 94. Arkansas Code § 18-27-204 is amended to read as follows:

34 18-27-204. Limitations on the purchase and disposition of personal
35 property.

36 (a) As used in this section "pawnbroker" means any person, firm, or

1 corporation, or an agent thereof, who is engaged in the business of lending
2 money upon the security of articles of personal property or purchasing
3 personal property.

4 (b) No pawnbroker shall purchase or receive personal property as
5 security from any person under eighteen (18) years of age who has not been
6 emancipated under § 9-26-104.

7 (c) No pawnbroker shall dispose of personal property purchased or
8 received as security until at least fifteen (15) calendar days after the
9 property is purchased or pawned, or at least seven (7) calendar days after
10 the purchase or pawn is reported to the local police, whichever comes first,
11 unless the property is redeemed by the person who sold or pawned it.

12 (d) The provisions of this section shall not be applicable to personal
13 property purchased by the pawnbroker from retailers or wholesalers.

14 (e) The failure on the part of a pawnbroker to comply with the
15 provisions of this section shall be deemed a ~~misdemeanor~~ violation. Upon
16 conviction the offender shall be punished by a fine of not more than one
17 thousand dollars (\$1,000).

18
19 SECTION 95. Arkansas Code § 18-28-402 is amended to read as follows:
20 18-28-402. Escrow accounts.

21 (a)(1) A holder of mineral proceeds shall establish an escrow account
22 for mineral proceeds if the person entitled to the receipt of the proceeds is
23 unknown or has not been located within one (1) year after the funds became
24 payable or distributable.

25 (2) The escrow account shall be for the benefit of the rightful
26 recipient of the mineral proceeds.

27 (3) Any person showing to the holder sufficient proof of
28 identity and ownership of the property shall be promptly paid the sum
29 accumulated for his or her benefit in the escrow account.

30 (b)(1) If a holder of mineral proceeds is required to establish more
31 than one (1) escrow account by operation of this section, then the mineral
32 proceeds accruing may be commingled in a single account.

33 (2) Separate records of each deposit and withdrawal on behalf of
34 specific persons shall be maintained.

35 (c) The Auditor of State and the Oil and Gas Commission shall require
36 a report of each account to be filed annually. The report shall include, but

1 shall not be limited to:

2 (1) The name and last known address of the property owner;

3 (2) The legal description of the property interest;

4 (3) The location and account number of the escrow account;

5 (4) The name of the person authorized to order withdrawals from
6 the account; and

7 (5) Any other information that the Auditor of State and the
8 commission may require.

9 (d) Any holder of mineral proceeds who violates this section shall be
10 guilty of a ~~misdemeanor~~ violation and upon conviction shall be subject to a
11 fine not to exceed one thousand dollars (\$1,000) for each violation.

12 (e) The commission shall enforce the provisions of this subchapter and
13 shall conduct random audits of the escrow accounts required by this section.
14

15 SECTION 96. Arkansas Code § 18-44-108 is amended to read as follows:
16 18-44-108. Refusal to list parties doing work or furnishing materials.

17 (a) The owner or proprietor, material supplier, subcontractor, or
18 anyone interested as mortgagee or trustee in the real estate upon which
19 improvements are made under this subchapter, may, at any time, apply to the
20 contractor or subcontractor for the following:

21 (1) A list of all parties doing work or furnishing material for
22 the buildings and the amount due to each of the persons; and

23 (2) Certification that the owner or agent has received the
24 preliminary notice specified under § 18-44-115.

25 (b) Any contractor or subcontractor who, upon request, refuses or
26 fails within five (5) business days to give a correct list of the parties
27 furnishing material or doing labor, and the amount due to each, on the
28 building, or who falsely certifies that an owner or agent has received the
29 preliminary notice specified under § 18-44-115, shall be guilty of a
30 ~~misdemeanor~~ violation and upon conviction shall be punished by a fine not
31 exceeding two thousand five hundred dollars (\$2,500).
32

33 SECTION 97. Arkansas Code § 18-44-109 is amended to read as follows:
34 18-44-109. Unlawful to use materials other than as designated.

35 Any contractor or subcontractor who shall purchase materials on credit
36 and represent at the time of purchase that they are to be used in a

1 designated building or other improvement and shall thereafter use, or cause
 2 to be used, the materials in the construction of any building or improvement
 3 other than that designated without the written consent of the person from
 4 whom the materials were purchased, with intent to defraud that person, shall
 5 be deemed guilty of a ~~misdemeanor~~ violation if the materials were valued at
 6 one thousand dollars (\$1,000) or more and upon conviction shall be punished
 7 by a fine not exceeding two thousand five hundred dollars (\$2,500).

8
 9 SECTION 98. Arkansas Code § 18-44-115 is amended to read as follows:
 10 18-44-115. Notice to owner by contractor.

11 (a)(1) No lien may be acquired by virtue of this subchapter unless the
 12 owner or his or her authorized agent has received, by personal delivery or by
 13 certified mail, a copy of the notice set out in subsection (c) of this
 14 section.

15 (2) The notice required by this section shall not require the
 16 signature of the owner or his or her authorized agent in instances when the
 17 notice is delivered by certified mail.

18 (b)(1)(A) It shall be the duty of the contractor to give the owner or
 19 his or her authorized agent the notice set out in subsection (c) of this
 20 section on behalf of all potential lien claimants under his or her contract
 21 prior to the supplying of any materials or fixtures.

22 (B) Any potential lien claimant may also give notice.

23 (2) However, no lien may be claimed by any supplier of material
 24 or fixtures unless the owner or agent has received at least one (1) copy of
 25 the notice, which need not have been given by the particular lien claimant.

26 (c) The notice set forth in this subsection may be incorporated into
 27 the contract, or affixed thereto, and shall be conspicuous, worded exactly as
 28 stated, in all capital letters, and shall read as follows:

29
 30 "IMPORTANT NOTICE TO OWNER

31
 32 I UNDERSTAND THAT EACH PERSON SUPPLYING MATERIAL OR FIXTURES IS
 33 ENTITLED TO A LIEN AGAINST PROPERTY IF NOT PAID IN FULL FOR MATERIALS USED TO
 34 IMPROVE THE PROPERTY EVEN THOUGH THE FULL CONTRACT PRICE MAY HAVE BEEN PAID
 35 TO THE CONTRACTOR. I REALIZE THAT THIS LIEN CAN BE ENFORCED BY THE SALE OF
 36 THE PROPERTY IF NECESSARY. I AM ALSO AWARE THAT PAYMENT MAY BE WITHHELD TO

1 THE CONTRACTOR IN THE AMOUNT OF THE COST OF ANY MATERIALS OR LABOR NOT PAID
 2 FOR. I KNOW THAT IT IS ADVISABLE TO, AND I MAY, REQUIRE THE CONTRACTOR TO
 3 FURNISH TO ME A TRUE AND CORRECT FULL LIST OF ALL SUPPLIERS UNDER THE
 4 CONTRACT, AND I MAY CHECK WITH THEM TO DETERMINE IF ALL MATERIALS FURNISHED
 5 FOR THE PROPERTY HAVE BEEN PAID FOR. I MAY ALSO REQUIRE THE CONTRACTOR TO
 6 PRESENT LIEN WAIVERS BY ALL SUPPLIERS, STATING THAT THEY HAVE BEEN PAID IN
 7 FULL FOR SUPPLIES PROVIDED UNDER THE CONTRACT, BEFORE I PAY THE CONTRACTOR IN
 8 FULL. IF A SUPPLIER HAS NOT BEEN PAID, I MAY PAY THE SUPPLIER AND CONTRACTOR
 9 WITH A CHECK MADE PAYABLE TO THEM JOINTLY.

10
 11 SIGNED: _____

12
 13 _____

14 ADDRESS OF PROPERTY

15
 16
 17 DATE: _____

18
 19 I HEREBY CERTIFY THAT THE SIGNATURE ABOVE IS THAT OF THE OWNER OR AGENT
 20 OF THE OWNER OF THE PROPERTY AT THE ADDRESS SET OUT ABOVE.

21
 22 _____

23 CONTRACTOR"

24
 25
 26 (d) If the contractor supplies a performance and payment bond or if
 27 the transaction is a direct sale to the property owner, the notice
 28 requirement of subsection (a) of this section shall not apply, and the lien
 29 rights arising under this subchapter shall not be conditioned on the delivery
 30 and execution of the notice. A sale shall be a direct sale only if the owner
 31 orders the materials from the lien claimant or authorizes another person to
 32 do so.

33 (e)(1)(A) The General Assembly hereby finds that owners and developers
 34 of commercial real estate are generally knowledgeable and sophisticated in
 35 construction law, are aware that unpaid suppliers of labor and material are
 36 entitled to assert liens against the real estate if unpaid, and know how to

1 protect themselves against the imposition of mechanics' and material
2 suppliers' liens.

3 (B) The General Assembly further finds that consumers who
4 construct or improve residential real estate containing four (4) or fewer
5 units generally do not possess the same level of knowledge and awareness and
6 need to be informed of their rights and responsibilities.

7 (C) Because supplying the notice specified in subsection
8 (c) of this section imposes a substantial burden on material suppliers, the
9 notice requirement mandated under subsection (b) of this section as a
10 condition precedent to the imposition of a material supplier's lien shall
11 only apply to construction of or improvement to residential real estate
12 containing four (4) or fewer units.

13 (2)(A) No material supplier or laborer shall be entitled to a
14 lien unless the material supplier or laborer notifies the owner of the
15 commercial real estate being improved, in writing, that such material
16 supplier or laborer is currently entitled to payment, but has not been paid.

17 (B) This notice shall be sent to the owner and to the
18 contractor by registered mail, return receipt requested, before seventy-five
19 (75) days have elapsed from the time that the labor was supplied or the
20 material furnished.

21 (C) Such notice shall contain the following information:

22 (i) A general description of the labor, service, or
23 material furnished, and the amount due and unpaid;

24 (ii) The name and address of the person furnishing
25 the labor, service, or materials;

26 (iii) The name of the person who contracted for
27 purchase of the labor, service, or materials;

28 (iv) A description of the job site sufficient for
29 identification; and

30 (v) The following statement set out in boldface
31 type:

32

33 "NOTICE TO PROPERTY OWNER

34

35 IF BILLS FOR LABOR, SERVICES, OR MATERIALS USED TO CONSTRUCT AN
36 IMPROVEMENT TO REAL ESTATE ARE NOT PAID IN FULL, A CONSTRUCTION LIEN MAY BE

1 PLACED AGAINST THE PROPERTY. THIS COULD RESULT IN THE LOSS, THROUGH
2 FORECLOSURE PROCEEDINGS, OF ALL OR PART OF YOUR REAL ESTATE BEING IMPROVED.
3 THIS MAY OCCUR EVEN THOUGH YOU HAVE PAID YOUR CONTRACTOR IN FULL. YOU MAY
4 WISH TO PROTECT YOURSELF AGAINST THIS CONSEQUENCE BY PAYING THE ABOVE NAMED
5 PROVIDER OF LABOR, SERVICES, OR MATERIALS DIRECTLY, OR MAKING YOUR CHECK
6 PAYABLE TO THE ABOVE NAMED PROVIDER AND CONTRACTOR JOINTLY."

7 (3) Any contractor who fails to give the notice required by this
8 subsection shall be guilty of a ~~misdemeanor~~ violation and upon conviction
9 shall be punished by a fine not exceeding one thousand dollars (\$1,000).

10
11 SECTION 99. Arkansas Code § 18-48-302 is amended to read as follows:
12 18-48-302. Penalty for sale, etc., of female animal.

13 Upon the sale, exchange, removal, or disposition of ~~the~~ a female animal
14 described in § 18-48-301 without consent of the person holding the lien or
15 with intent to defraud him or her, the owner of the female animal shall be
16 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any
17 sum not less than twenty-five dollars (\$25.00), nor more than fifty dollars
18 (\$50.00).

19
20 SECTION 100. Arkansas Code § 19-1-211 is amended to read as follows:
21 19-1-211. Investigations.

22 (a)(1) In any matters within the jurisdiction of the Department of
23 Finance and Administration, the Director of the Department of Finance and
24 Administration shall have the power to make investigations and may delegate
25 that power to any division or section head of the department.

26 (2) For this purpose, the director shall have the power to
27 subpoena witnesses and require the production of any books, records, papers,
28 or documents that may be material or relevant as evidence and to administer
29 oaths to, and take the testimony of, witnesses.

30 (b)(1) In case of disobedience to any subpoena or other process, the
31 director may invoke the aid, with the written approval of the Governor, of
32 the Circuit Court of Pulaski County in requiring the testimony of witnesses
33 and the production of evidence, books, records, papers, or documents.

34 (2)(A) In case of refusal to obey the subpoena issued to any
35 person, firm, or corporation, that court shall issue an order calling such
36 person, firm, or corporation to appear before the director or other employee

1 designated by the director and to produce all books and papers so ordered and
2 give evidence touching the matter in question.

3 (B) Any failure to obey the order of the court may be
4 punished by the court as contempt thereof.

5 (c) Subpoenas for witnesses ~~shall~~ may be issued by the director or by
6 any division or section head of the department in whom any such authority may
7 have been vested by the director and shall be served as provided by law for
8 the service of other subpoenas.

9 (d)(1)(A) The failure or refusal of any witness to appear or to
10 produce any books, papers, or documents required by the director and to
11 submit them for inspection or the refusal to answer any relevant question
12 propounded by the director shall constitute a ~~misdemeanor~~ violation,
13 punishable by a fine of not less than one hundred dollars (\$100) nor more
14 than five hundred dollars (\$500).

15 (B) Each failure or refusal by any witness to appear or
16 produce any such books, papers, or documents shall constitute a separate
17 offense.

18 (2) False testimony given in any such inquiry shall constitute
19 perjury punishable as provided by law.

20

21 SECTION 101. Arkansas Code § 19-2-104 is amended to read as follows:

22 19-2-104. Expenditures, contracts, or obligations in excess of
23 appropriations prohibited.

24 (a) No officer, employee, or agent of the State of Arkansas, nor any
25 board of regents or board of trustees, nor any other person or authority, who
26 is authorized by law to make expenditures of money appropriated for the
27 different state institutions, or who is authorized to direct the expenditure
28 of such money so appropriated, shall expend or direct the expenditure of
29 moneys or funds in excess of the amount appropriated and becoming a part of
30 any appropriation by executive approval for the particular purpose named in
31 the act making the appropriations. Nor shall any officer, employee, agent,
32 person, ~~or board,~~ or authority make any contract which will exceed the amount
33 appropriated and becoming a part of any appropriation act by executive
34 approval for the particular purpose named in the act making the
35 appropriation. Nor shall any officer, agent, person, board, or authority
36 incur any obligation for any purpose in excess of the amount appropriated and

1 becoming a part of any appropriation by executive approval for the particular
2 purpose named in the act making the appropriation, except as provided.

3 (b) Any person violating the provisions of this section shall be
4 deemed guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined
5 in any sum not less than fifty dollars (\$50.00) nor more than two hundred
6 dollars (\$200).

7
8 SECTION 102. Arkansas Code § 19-4-103 is amended to read as follows:
9 19-4-103. Penalty.

10 With respect to all matters for which penalties have not otherwise been
11 provided ~~for~~ in this act, any person who shall knowingly violate any of the
12 provisions of this act shall be guilty of a ~~misdemeanor~~ violation and upon
13 conviction shall be fined in any amount not to exceed one thousand dollars
14 (\$1,000).

15
16 SECTION 103. Arkansas Code § 20-7-111 is amended to read as follows:
17 20-7-111. Administration of certain federal acts.

18 (a) The State of Arkansas does accept the benefits of any acts now
19 passed or hereafter to be passed by the Congress to provide for cooperation
20 with the states in the protection of mothers and infants and promotion of a
21 public health program.

22 (b) The State Board of Health is designated as the state board for the
23 purpose of carrying into effect the provisions of the federal acts and this
24 section and shall have all necessary authority to cooperate with the federal
25 authorities administering the acts of Congress. The board shall administer
26 any legislation pursuant thereto enacted by the State of Arkansas under the
27 provisions of this section for promotion of a health program.

28 (c) The Director of the Department of Health shall act as executive
29 officer of the board for the purpose of administering the federal acts and
30 this section. The director shall carry into effect such rules and regulations
31 as the federal authorities and the board may adopt thereunder.

32 (d) The Treasurer of State is designated and appointed custodian of
33 all moneys received by the state from the appropriation made by the Congress,
34 and he or she is authorized to receive and provide for the proper custody of
35 the moneys and to make disbursements in the manner provided by law and for
36 the purpose specified in this section.

1 (e) The allocation of funds under this section shall be made to the
2 respective counties in consecutive order as they make application and qualify
3 for the funds.

4 (f)(1) Any person, firm, or corporation violating any of the
5 provisions of this section upon conviction shall be guilty of a ~~misdemeanor~~
6 violation and shall be fined in a sum not to exceed five hundred dollars
7 (\$500) at the discretion of the court.

8 (2) Each day the violation is committed shall constitute a
9 separate offense.

10
11 SECTION 104. Arkansas Code § 20-9-202 is amended to read as follows:
12 20-9-202. Penalties.

13 (a) Any person, partnership, association, or corporation establishing,
14 conducting, managing, or operating any institution within the meaning of this
15 subchapter without first obtaining a license therefor as provided or
16 violating any provision of this subchapter or regulations lawfully
17 promulgated ~~hereunder~~ under this subchapter shall be guilty of a ~~misdemeanor~~
18 violation.

19 (b) Upon conviction, the person shall be ~~liable to a fine of~~ fined not
20 less than twenty-five dollars (\$25.00) nor more than one hundred dollars
21 (\$100) for the first offense and not less than one hundred dollars (\$100) nor
22 more than five hundred dollars (\$500) for each subsequent offense.

23 (c) Each day the institution shall operate after a first conviction
24 shall be considered a subsequent offense.

25
26 SECTION 105. Arkansas Code § 20-9-301 is amended to read as follows:
27 20-9-301. Posting of room rates.

28 (a) All public and private hospitals located and operated in this
29 state shall post in some conspicuous place in each patient's room the daily
30 room rates for both a private and a semiprivate room.

31 (b) Any hospital or person violating subsection (a) of this section
32 shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall be
33 subject to a fine of not less than ten dollars (\$10.00) nor more than fifty
34 dollars (\$50.00) for each violation.

35
36 SECTION 106. Arkansas Code § 20-9-305 is amended to read as follows:

1 20-9-305. Annual reports - Nonprofit hospitals.

2 (a)(1) Any nonprofit hospital association or corporation organized
3 under the laws of this state which operates and maintains a hospital facility
4 in this state primarily for providing hospital services for the employees of
5 any corporation or company engaged in interstate commerce shall file annually
6 with the Director of the Department of Finance and Administration a detailed
7 report of income, fees, charges, and contributions from all sources received
8 by it during the year, together with the expenses and disbursements of the
9 corporation or association during the year. The report shall be filed on or
10 before April 1 in each year.

11 (2) A copy of the report shall be furnished to each member of
12 such hospital association or corporation upon the request of any member.

13 (b) Any nonprofit hospital association or corporation failing or
14 refusing to file the report as required in subsection (a) of this section, or
15 which fails or refuses to furnish any member a copy of such report or
16 statement upon request, shall be guilty of a ~~misdemeanor~~ violation and shall
17 be subject to a fine of ten dollars (\$10.00) for each day the violation
18 continues.

19 (c)(1) The provisions of this section shall not apply to any nonprofit
20 hospital association or corporation which operates and maintains a hospital
21 facility in any county of this state having a population of not less than
22 twenty-five thousand six hundred (25,600) nor more than twenty-five thousand
23 seven hundred (25,700), according to the 1970 Federal Decennial Census.

24 (2) The provisions of this section shall not be applicable with
25 respect to any nonprofit hospital associations or corporations which operate
26 and maintain a hospital facility in any county of this state having a
27 population of not less than forty-seven thousand (47,000) nor more than fifty
28 thousand (50,000), according to the 1970 Federal Decennial Census.

29
30 SECTION 107. Arkansas Code § 20-9-307 is amended to read as follows:

31 20-9-307. Itemized statement for services, drugs, and supplies.

32 (a)(1) Each hospital in the state, except those operated by the State
33 of Arkansas, shall furnish, upon the patient's request at the time of
34 discharge of each patient or at the time of billing the patient or the
35 insurance company for the patient or at the time of billing the patient or
36 the insurance company for the hospital services, drugs, and supplies, to the

1 patient and to the insurance company an itemized listing of all services,
2 drugs, and supplies to be billed to that person while a patient in the
3 hospital.

4 (2) The itemized statement shall be furnished to the patient and
5 the insurance company no later than thirty (30) days after discharge of the
6 patient.

7 (3) In addition, each patient discharged from a hospital in this
8 state shall, at the time of discharge, be advised in writing of his or her
9 right to receive the itemized statement for services, drugs, and supplies
10 required by this section.

11 (4) The State Board of Health shall adopt rules specifying the
12 items to be included and the manner in which they shall be presented on
13 itemized statements as required in this section.

14 (b) The administrator or the agent of any hospital who fails or
15 refuses to provide the itemized statement upon request as required in this
16 section, or fails or refuses at the time of discharge of any patient to
17 advise the patient of his or her right to receive the itemized statement
18 provided for in this section, shall be guilty of a ~~misdemeanor~~ violation and
19 upon conviction shall be subject to a fine of not less than fifty dollars
20 (\$50.00) nor more than one hundred fifty dollars (\$150) for each violation.
21

22 SECTION 108. Arkansas Code § 20-9-905 is amended to read as follows:
23 20-9-905. Penalty.

24 (a) A person who violates any provision of this subchapter or any
25 regulation adopted under this subchapter is guilty of a ~~misdemeanor~~ violation
26 and upon conviction is subject to a penalty not exceeding one thousand
27 dollars (\$1,000).

28 (b) Each day a violation is continued after the first conviction is a
29 separate offense.
30

31 SECTION 109. Arkansas Code § 20-10-107 is amended to read as follows:
32 20-10-107. Long-term care facility - Notice of certain incidents.

33 (a) As used in this section, "long-term care facility" means "long-
34 term care facility" as defined by ~~§ 20-10-213(4)~~ § 20-10-213.

35 (b)(1) Within twenty-four (24) hours after the incident requiring
36 notification occurs, a long-term care facility shall notify, by telephone and

1 in writing, the legal representative or guardian of a resident of the
2 facility when:

- 3 (A) The resident suffers an injury;
4 (B) The resident is taken outside the facility for medical
5 care;
6 (C) The resident is moved to a different room; or
7 (D) There is any significant change in the physical or
8 mental condition of the resident.

9 (2) Any person who does not comply with the provisions of this
10 subsection (b) is guilty of a ~~misdemeanor~~ violation and upon conviction shall
11 be punished by a fine of one thousand dollars (\$1,000). The fine shall be
12 deposited in the State Treasury and credited to the Economic and Medical
13 Services Fund Account, there to be used exclusively for the support of the
14 Office of Long-Term Care of the Department of Human Services.

15 (c)(1) It shall be the responsibility of the long-term care facility
16 to obtain an address and telephone number where the legal representative or
17 guardian is available for notification.

18 (2) It shall be the responsibility of the legal representative
19 or guardian to notify the long-term care facility of any change in address or
20 telephone number.

21

22 SECTION 110. Arkansas Code § 20-10-214 is amended to read as follows:

23 20-10-214. Penalties for §§ 20-10-213 - 20-10-228.

24 (a) Any person, partnership, association, or corporation establishing,
25 conducting, managing, or operating any institution or facility, or any
26 combination of separate entities working in concert within the meaning of §§
27 20-10-213 - 20-10-228, without first obtaining a license therefor as
28 provided, or violating any provision of §§ 20-10-213 - 20-10-228 or
29 regulation lawfully promulgated thereunder, shall be guilty of a ~~misdemeanor~~
30 violation.

31 (b) Upon conviction, the person, partnership, association, or
32 corporation shall be liable for a fine of not less than one hundred dollars
33 (\$100) nor more than five hundred dollars (\$500) for the first offense nor
34 more than one thousand dollars (\$1,000) for each subsequent offense.

35 (c) Each day the institution shall operate after a first conviction
36 shall be considered a subsequent offense.

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SECTION 111. Arkansas Code § 20-10-803 is amended to read as follows:

20-10-803. Penalties.

(a)(1) Any person who violates any provision of this subchapter or regulations lawfully promulgated ~~hereunder shall be guilty of a misdemeanor~~ under this subchapter shall be guilty of a violation.

(2) Upon conviction thereof, that person shall be liable to a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for the first offense and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent offense.

(b) Each day ~~that~~ the person performs home health services ~~shall operate~~ after a first conviction shall be considered a subsequent offense.

SECTION 112. Arkansas Code § 20-16-506 is amended to read as follows:

20-16-506. Failure to notify - Penalty.

Failure to give notice as provided in §§ 20-16-501 - 20-16-505 shall be a ~~misdemeanor~~ violation and upon conviction shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

SECTION 113. Arkansas Code § 20-17-1012 is amended to read as follows:

20-17-1012. Permit - Transfer of ownership.

(a)(1) Whenever any change is proposed in the controlling interest or ownership of any perpetual care cemetery or any cemetery company or any organization which, directly or indirectly, owns a controlling interest in the cemetery company, the cemetery company which holds the current permit and the individual or organization proposing to obtain ownership or gain control shall file an application for the issuance of a new permit with the Arkansas Cemetery Board.

(2) The application must be accompanied by:

(A) A fee of one hundred dollars (\$100);

(B) A statement of changes, if any, in the survey and map of the cemetery;

(C) A set of rules and regulations for the use, care, management, and protection of the cemetery;

(D) The proposed method of continuing the permanent

1 maintenance fund presently in existence;

2 (E) A statement of the proposed transfer;

3 (F) A copy of a current title opinion by an Arkansas-
4 licensed attorney or title insurance policy that reflects that the current
5 permit holder has good and merchantable title to the land covered by the
6 permit;

7 (G) A notarized statement from the seller and purchaser
8 disclosing any current or future lien or mortgage on the land covered by the
9 permit;

10 (H) A notarized statement from any current or future
11 lienholder or mortgage holder on the land covered by the permit that all
12 paid-in-full burial spaces will be released from the lien or mortgage at
13 least semiannually;

14 (I) A current detailed accounting of all paid-in-full
15 merchandise contracts or accounts of the permit holder and seller for which
16 the merchandise has not been delivered to the purchaser or placed in
17 inventory for the benefit of the purchaser. This accounting shall be on an
18 individual contract or account basis and contain the name of the purchaser,
19 the contract or account number, the date of the contract, the gross amount of
20 the contract, a description of the merchandise purchased, the date the
21 contract or account was paid in full, and the specific location where the
22 merchandise is stored;

23 (J) A current notarized statement from the permit holder
24 and seller that the application contains a complete and accurate accounting
25 of all his or her outstanding accounts receivable, discounted notes and paid-
26 in-full merchandise accounts or contracts for which the merchandise has not
27 been delivered to the purchaser or placed in inventory for the benefit of the
28 purchaser;

29 (K) A current notarized statement from the purchaser or
30 organization gaining control that it will assume the responsibility and
31 liability for all the accounts, notes and contracts of the seller that are
32 contained in the accountings and schedules that are filed as a part of the
33 application;

34 (L) The financial statements of the applicant and
35 purchaser required by the rules which reflect that the applicant and
36 purchaser has a minimum net worth of twenty thousand dollars (\$20,000); and

1 (M) Any additional information required by the board or
2 the secretary of the board.

3 (b) Each vendor or the transferor of the cemetery company or interest
4 therein shall remain liable for any funds and transactions up to the date of
5 the sale or transfer.

6 (c)(1) Prior to the sale or transfer, the vendor or the transferor
7 shall notify the board of the proposed sale or transfer and shall submit to
8 the board, under oath, any document or record the board may require in order
9 to demonstrate that the vendor or transferor is not indebted to the permanent
10 maintenance fund.

11 (2) After the transfer of ownership or control, the vendor or
12 transferor must present to the board proof of currency in the permanent
13 maintenance fund.

14 (3) The board may additionally require the presentation of proof
15 of the continued current status of the permanent maintenance fund by the
16 vendee or transferee for such reasonable period of time as the board may
17 determine to be necessary in the public interest.

18 (4) The board is further authorized to recover from that vendor
19 or transferor or vendee or transferee, for the benefit of the permanent
20 maintenance fund, all sums which the vendor or transferor or vendee or
21 transferee has not properly accounted for and paid into the trust fund,
22 together with reasonable expenses incurred by the board by bringing this
23 action.

24 (d) The cemetery company who has been issued a permit to operate a
25 cemetery under the provisions of this subchapter shall remain liable for the
26 maintenance and care of the cemetery and all amounts due the permanent
27 maintenance fund until a new permit is issued to the vendee or transferee.

28 (e) No new permit shall be issued to the vendee or transferee of any
29 cemetery until that vendee or transferee complies with this subchapter and
30 the board orders a new permit to be issued to the vendee or transferee.

31 (f) Any vendor or transferor or vendee or transferee who violates the
32 provisions of this section shall be guilty of a ~~misdemeanor~~ violation and
33 upon conviction shall be fined not less than one hundred dollars (\$100) nor
34 more than five hundred dollars (\$500) for the violation.

35
36 SECTION 114. Arkansas Code § 20-19-202 is amended to read as follows:

1 20-19-202. Vaccination required.

2 (a) All dogs and cats within the State of Arkansas shall be vaccinated
3 at least ~~once~~ one (1) time a year against rabies, and it is made the duty of
4 all owners of dogs or cats or persons having the possession or control of
5 dogs or cats within this state to have the animals vaccinated with vaccine
6 against rabies in an amount, quantity, and quality to be approved by the
7 State Veterinarian.

8 (b) However, this section shall not apply within cities or
9 incorporated towns through which a state line runs when the adjoining state
10 has no comparable law.

11 (c) Any owner of any dog or cat or any person having the care and
12 control of any dog or cat who fails to have the dog or cat vaccinated
13 according to the terms of this subchapter shall be deemed guilty of a
14 ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not less
15 than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for each
16 offense.

17 (d) Any dog or cat termed a stray that is not vaccinated is subject to
18 destruction.

19
20 SECTION 115. Arkansas Code § 20-19-304 is amended to read as follows:

21 20-19-304. Penalties.

22 (a) ~~(1) Any person violating~~ A person shall be guilty of a violation
23 for:

24 (A) Violating or aiding in or abetting the violation of
25 any provision of this ~~subchapter or making~~ subchapter;

26 (B) Making a misrepresentation in regard to any matter
27 prescribed by this subchapter; ~~resisting,~~

28 (C) Resisting, obstructing, or impeding any authorized
29 officer in enforcing this subchapter; or ~~refusing~~

30 (D) Refusing to produce for inoculation against rabies any
31 dog or cat in his ~~possession is guilty of a misdemeanor~~ or her possession.

32 (2) Upon conviction, the person shall be fined in any sum not
33 less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for
34 each offense.

35 (b) Any dog or cat termed a stray that is not vaccinated against
36 rabies is subject to destruction.

1 (c)(1) Any officers ~~failing or refusing~~ failing, refusing, or
2 neglecting to carry out the provisions of this subchapter shall be guilty of
3 a ~~misdemeanor~~ violation.

4 (2) Upon conviction, the officer shall be fined in any sum not
5 less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for
6 each offense.

7
8 SECTION 116. Arkansas Code § 20-19-308 is amended to read as follows:

9 20-19-308. Shipment of head of animal suspected of being rabid to
10 laboratory.

11 (a)(1) Any person causing the death of an animal, either wild or
12 domesticated, suspected of being rabid shall cause the head ~~thereof~~ of the
13 animal, together with an affidavit stating that he or she has reasonable
14 grounds to believe that the animal was rabid, to be presented to the county
15 court of the county in which the animal was ~~killed, and it~~ killed.

16 (2) It shall be the duty of the court to have the head shipped,
17 prepaid, to the State Public Health Laboratory of the Department of Health.
18 ~~(2)~~ The expenses incurred in such shipment shall be paid from the county
19 general fund of the county in which the animal was killed.

20 (b)(1)(A) Whenever health and other public officials request
21 commercial bus lines operating in Arkansas to receive properly packaged small
22 animal heads for transporting to the laboratory for examination for rabies
23 and where a human life is in danger, it will be unlawful for bus lines to
24 refuse to transport these properly packaged small animal heads to the
25 laboratory for examination.

26 (B) Commercial bus lines failing, refusing, or neglecting
27 to carry out the applicable provisions of this section shall be guilty of a
28 ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not less
29 than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for each
30 offense.

31 (2) The accepted method of packaging these severed animal heads
32 will be formulated and distributed by the Department of Health. The
33 ~~Department of Health~~ department shall make arrangements to pick up these
34 specimens at the bus terminal without delay. The ~~Department of Health~~
35 department will develop a method of packaging that protects the patrons and
36 bus company employees.

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SECTION 117. Arkansas Code § 20-20-101 is amended to read as follows:

20-20-101. Date of manufacture stamped on cotton insecticides.

(a) Every person, firm, or corporation bagging any commercial cotton insecticide or poison shall stamp on each bag, or on a tag attached to each bag, the date on which the insecticide or poison was manufactured.

(b)(1) Any person, firm, or corporation failing or refusing to comply with the requirements of this section shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not less than five dollars (\$5.00) nor more than one hundred dollars (\$100).

(2) Each bag or other container which is shipped without first having the date placed thereon shall be a separate offense.

SECTION 118. Arkansas Code § 20-20-204 is amended to read as follows:

20-20-204. Penalties.

(a)(1) Any commercial or noncommercial applicator, dealer, or pilot who violates any provision of this subchapter or the regulations adopted ~~thereunder~~ under this subchapter shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall be punished for the first offense by a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) and for the second and any additional offense by a fine of not less than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000).

(2)(A) Any private applicator who violates any provision of this subchapter or the regulations adopted ~~thereunder~~ under this subchapter subsequent to having received a written warning from the State Plant Board for a prior violation shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500) for each offense.

(B) An offense committed more than three (3) years after a previous conviction or written warning shall be considered as a first offense.

(b) No state court shall allow the recovery of damages from administrative action taken if the court finds that there was probable cause for such action.

1 SECTION 119. Arkansas Code § 20-20-227 is amended to read as follows:
2 20-20-227. Penalties for use inconsistent with labeling.

3 (a) Any person who uses a pesticide in a manner inconsistent with its
4 labeling is subject to the jurisdiction of the State Plant Board and its
5 statutes, rules, and orders over which it has regulatory authority and may be
6 subject to denial, suspension, revocation, or modification of a license or
7 permit under § 20-20-214.

8 (b) Any person who knowingly uses a pesticide in a manner inconsistent
9 with its ~~labelling~~ labeling is guilty of a ~~misdemeanor~~ violation and, upon
10 conviction, shall be punished by a fine of not less than one hundred dollars
11 (\$100) nor more than five hundred dollars (\$500).

12

13 SECTION 120. Arkansas Code § 20-22-502 is amended to read as follows:
14 20-22-502. Penalties.

15 (a)(1) Every person operating any hotel, motel, apartment building, or
16 other similar multiple-occupancy facility who shall fail or refuse to
17 properly install and maintain an emergency lighting system, fire escape
18 stairway and ladders, and a fire alarm system, in accordance with the
19 provisions of this subchapter, shall be guilty of a ~~misdemeanor~~ violation.

20 (2) Upon conviction, the person shall be subject to a fine of
21 not less than two hundred fifty dollars (\$250) nor more than one thousand
22 dollars (\$1,000).

23 (b) Every day that such violation continues shall constitute a
24 separate offense.

25

26 SECTION 121. Arkansas Code § 20-22-703 is amended to read as follows:
27 20-22-703. Other exceptions.

28 (a)(1) Nothing in this subchapter shall be construed as applying to
29 ~~the manufacture, the:~~

30 (A) Manufacture, storage, sale, or use of signals
31 necessary for the safe operation of railroads or other classes of public or
32 private transportation or of illuminating devices for photographic use; ~~nor~~
33 ~~as applying to the military~~

34 (B) Military or naval forces of the United States or of
35 this state or to peace officers; ~~nor as prohibiting the sale~~

36 (C) Sale or use of blank cartridges for ceremonial,

1 theatrical, or athletic events; ~~nor as applying to the transportation, sale,~~
2 or

3 (D) Transportation, sale, or use of permissible fireworks
4 as defined in § 20-22-708 or special fireworks as defined in § 20-22-701
5 solely for agricultural or industrial purposes, provided the purchaser first
6 secures a written permit to purchase and use the fireworks for agricultural
7 or industrial purposes from the Director of the Department of Arkansas State
8 Police.

9 (2) No permit for use of fireworks for agricultural purposes
10 shall be issued by the director except after approval of the county
11 agricultural agent of the county in which the fireworks are to be used.

12 (3) All fireworks purchased under permit as authorized ~~herein~~ in
13 this section for agricultural or industrial purposes shall at all times be
14 kept in the possession of the permit holder. The permits and fireworks shall
15 not be transferable.

16 (b) Any person holding a permit to purchase and use fireworks for
17 agricultural or industrial purposes as provided in this section who shall
18 sell, give away, or otherwise transfer such fireworks to another or shall use
19 or permit the use of the fireworks for any purpose other than agricultural or
20 industrial purposes as stated on the permit shall be ~~guilty of a misdemeanor~~
21 ~~and upon conviction therefor shall be punished by a fine of not less than~~
22 ~~fifty dollars (\$50.00) nor more than two hundred dollars (\$200) or imprisoned~~
23 ~~for not more than ninety (90) days, or both, in the discretion of the court~~
24 in violation of this subchapter and subject to the penalties provided for in
25 § 20-22-705.

26
27 SECTION 122. Arkansas Code § 20-22-706 is amended to read as follows:

28 20-22-706. License required - Penalty.

29 (a) No person shall do any act for which a license is required by this
30 subchapter or by local authorities acting pursuant to it unless he holds the
31 proper state and local license.

32 (b) Whoever violates subsection (a) of this section shall be guilty of
33 a violation and upon conviction shall be punished by a fine of not less than
34 one hundred dollars (\$100) nor more than five thousand dollars (\$5,000).

35
36 SECTION 123. Arkansas Code § 20-26-402 is amended to read as follows:

1 20-26-402. Door and window screens.

2 (a) It shall be the duty of every hotel or innkeeper in this state to
3 properly screen with wire cloth or gauze mesh not to be more than 1-32, the
4 doors and windows of the kitchen and dining room, and all openings therein,
5 of the inn or hotel.

6 (b) Any proprietor, lessee, manager, ~~or agent of an inn or hotel,~~
7 agent, or clerk of an inn or hotel who shall fail or refuse to comply with
8 the ~~foregoing provisions and requirements shall be guilty of a misdemeanor~~
9 requirements of subsection (a) of this section shall be guilty of a violation
10 and upon conviction shall be fined not less than five dollars (\$5.00) nor
11 more than twenty-five dollars (\$25.00).

12 ~~(c) The proprietor, lessee, manager, agent, or clerk in charge of the~~
13 ~~operation and conduct of the inn or hotel, whenever any violation of the~~
14 ~~provisions of this section shall occur, shall be guilty of a misdemeanor and,~~
15 ~~on conviction, shall be fined not less than five dollars (\$5.00) nor more~~
16 ~~than twenty five dollars (\$25.00).~~

17
18 SECTION 124. Arkansas Code § 20-26-405 is amended to read as follows:

19 20-26-405. Vented heating.

20 (a) Every person operating a tourist camp, motel, or auto court shall
21 provide, for the purpose of heating the individual rooms in the tourist camp,
22 motel, or auto court, stoves or heating units adequately vented to carry the
23 products of combustion to the outside atmosphere.

24 (b) Any person violating the provisions of this section shall be
25 deemed guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined
26 in any sum of not less than fifty dollars (\$50.00) nor more than one hundred
27 dollars (\$100), and each day of violation shall constitute a separate
28 offense.

29
30 SECTION 125. Arkansas Code § 20-27-702 is amended to read as follows:

31 20-27-702. Penalty.

32 Any person violating the provisions of this subchapter shall be guilty
33 of a ~~misdemeanor~~ violation and upon conviction shall be punished by a fine of
34 not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).
35

36 SECTION 126. Arkansas Code § 20-27-801 is amended to read as follows:

1 20-27-801. Unlawful to leave unattended - Exception.

2 (a)(1) It shall be unlawful for any person, firm, or corporation to
3 leave or permit to remain outside of any dwelling, building, or other
4 structure or within any unoccupied or abandoned building, dwelling, or other
5 structure under his, her, or its control in a place accessible to children
6 any abandoned, unattended, or discarded icebox, refrigerator, or other
7 container which has an air-tight door or lid, snaplock, or other locking
8 device which may not be released from the inside without first removing the
9 door or lid, snaplock, or other locking device from the icebox, refrigerator,
10 or container.

11 (2) The provisions of this subchapter shall not be applicable to
12 reefers, refrigerator, or icer cars of any railroad or railway express agency
13 or any other refrigerator vehicles unless the vehicles have been abandoned or
14 discarded.

15 (b)(1) The Labor Safety Administrator of the Department of Labor or
16 any of his or her deputies or inspectors shall have the right to remove the
17 door hinges or to dismantle, if necessary, any icebox, refrigerator, or other
18 container which has an air-tight door or lid, snaplock, or other locking
19 device which violates the provisions of this subchapter.

20 (2) The administrator or any of his or her deputies or
21 inspectors shall have the right to enter any junkyard, vacant lot, dump,
22 yard, unoccupied or abandoned building, dwelling, or other structure or place
23 frequented by children in order to perform duties pursuant to this section.

24 ~~(c)(1) Any person, firm, or corporation who shall fail to comply with~~
25 ~~the provisions of this section shall be guilty of a violation of this~~
26 ~~subchapter. Any person, firm, or corporation that is found guilty of a~~
27 ~~violation of the provisions of this section shall be guilty of a violation~~
28 ~~and upon conviction subject to a fine of not less than twenty-five dollars~~
29 ~~(\$25.00) nor more than one hundred dollars (\$100) for each violation.~~ Each
30 and every icebox, refrigerator, or other container abandoned in a condition
31 contrary to the provisions of this section shall be deemed a separate
32 offense.

33 ~~(2) Any person, firm, or corporation who shall be found guilty of~~
34 ~~a violation of the provisions of this section shall be subject to a fine of~~
35 ~~not less than twenty five dollars (\$25.00) nor more than one hundred dollars~~
36 ~~(\$100) for each violation.~~

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SECTION 127. Arkansas Code § 20-28-103 is amended to read as follows:
20-28-103. Penalties - Enforcement.

(a) The owner or agent of any water system violating any provisions of this chapter shall, upon conviction, be guilty of a ~~misdemeanor~~ violation. Each day in violation shall constitute a separate offense, subject to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

(b) Additionally, any water system violating any provision of this chapter shall be subject to civil penalties up to one thousand dollars (\$1,000) per day for each day during which the violation occurs.

(c) The Attorney General or his or her designee shall assist the Department of Health in prosecuting water systems not in compliance with this chapter.

SECTION 128. Arkansas Code § 20-30-102 is amended to read as follows:
20-30-102. Penalty.

~~(a) Any person operating a public swimming pool who fails or refuses to comply with any of the provisions of this chapter or rules and regulations or otherwise operates a swimming pool in violation of this chapter or rules and regulations~~ adopted pursuant to this chapter shall be guilty of a ~~misdemeanor~~ violation.

(b) Upon conviction, that person shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) for each offense. Each day of operation after sufficient notice has been given shall constitute a separate offense.

SECTION 129. Arkansas Code § 20-32-112 is amended to read as follows:
20-32-112. Violations - Penalties.

(a) Any person or carrier, or any officer, employee, agent, or representative thereof, while operating any vehicle transporting medical waste, or which is authorized to transport medical waste, who shall violate any of the regulations, including safety regulations, prescribed or hereafter prescribed by the Arkansas State Highway Commission pursuant to the provisions of Title 23 of ~~this~~ the Arkansas Code or who shall violate any regulation of the Department of Health which specifically relates to the

1 transportation of medical waste shall be deemed guilty of a ~~misdemeanor~~
2 violation.

3 (b) Upon conviction, that person or carrier, or officer, employee,
4 agent, or representative thereof, shall be fined not more than five hundred
5 dollars (\$500) for the first offense and not less than five hundred dollars
6 (\$500) nor more than one thousand dollars (\$1,000) for any subsequent
7 offense.

8
9 SECTION 130. Arkansas Code § 20-57-402 is amended to read as follows:
10 20-57-402. Honey.

11 (a) ~~It is unlawful for any person to package~~ Unless the product is
12 pure honey manufactured by honeybees, it is unlawful for any person to:

13 (1) Package any product and label the product as "honey" or
14 "imitation honey" or to use the word "honey" in any prominent location on the
15 label of the ~~product or to sell~~ product; or

16 (2) Sell or offer for sale any product which is labeled "honey"
17 or "imitation honey" or which contains a label with the word "honey"
18 prominently displayed thereon ~~unless the product is pure honey manufactured~~
19 ~~by honeybees.~~

20 (b) Any person violating the provisions of this section shall be
21 guilty of a ~~misdemeanor~~ violation and upon conviction shall be punished by a
22 fine of not less than fifty dollars (\$50.00) nor more than five hundred
23 dollars (\$500). Each violation shall constitute a separate offense.

24
25 SECTION 131. Arkansas Code § 20-58-101 is amended to read as follows:
26 20-58-101. Marking of cold-storage eggs.

27 (a) Any person, firm, or corporation retailing cold-storage eggs to
28 the public shall mark the eggs in a sufficient manner so that the buyers of
29 the eggs may have knowledge of their being cold-storage eggs by that mark.

30 (b) Any person, firm, or corporation, or the agents or employees of
31 any person, firm, or corporation violating this section shall be guilty of a
32 ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not less
33 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

34
35 SECTION 132. Arkansas Code § 20-58-204 is amended to read as follows:
36 20-58-204. Penalties.

1 (a) Any person, firm, or corporation violating any of the provisions
2 of this subchapter or regulations of the Arkansas Livestock and Poultry
3 Commission shall be guilty of a ~~misdemeanor~~ violation and shall upon
4 conviction:

5 (1) For the first offense be fined not less than twenty-five
6 dollars (\$25.00) nor more than one hundred dollars (\$100);

7 (2) For the second offense be fined not less than one hundred
8 dollars (\$100) nor more than two hundred fifty dollars (\$250); and

9 (3) For the third offense be fined not less than two hundred
10 fifty dollars (\$250) nor more than five hundred dollars (\$500).

11 (b) In addition to fines, in the discretion of the court:

12 (1) For the first offense, his or her permit may be suspended
13 not more than thirty (30) days;

14 (2) For the second offense, his or her permit may be suspended
15 not more than sixty (60) days; and

16 (3) For the third offense or any subsequent offense, his or her
17 grading and packing permit may be revoked.

18 (c) Public notice shall be made upon conviction of violation under
19 this subchapter.

20
21 SECTION 133. Arkansas Code § 20-59-202 is amended to read as follows:
22 20-59-202. Penalties.

23 Any person, firm, or corporation shall be guilty of a ~~misdemeanor~~
24 violation and shall be fined a sum not less than twenty-five dollars (\$25.00)
25 nor more than three hundred dollars (\$300) if that person, firm, or
26 corporation shall:

27 (1) Hinder, obstruct, or in any way interfere with the Director
28 of the Department of Health or his or her deputies while discharging the
29 duties of inspection;

30 (2) ~~In any way obstruct~~ Obstruct or hinder in any way the
31 director from carrying out the full meaning and intent of this subchapter;

32 (3) Refuse or fail to make the reports provided for by §§ 20-59-
33 206 - 20-59-211 and 20-59-214 - 20-59-246;

34 (4) Refuse or neglect to conform to the rules and regulations of
35 the Department of Health which have been published as provided in this
36 subchapter regarding the care or condition of any animal kept for dairy

1 purposes or for the sanitary conditions of any room, building, or place where
2 dairy products are kept either for storage or for the purpose of sale and
3 distribution; or

4 (5) Sell, exhibit, or offer for sale any dairy product which is
5 adulterated.

6

7 SECTION 134. Arkansas Code § 20-59-302 is amended to read as follows:
8 20-59-302. Penalties.

9 Any person, firm, or corporation that violates any of the provisions of
10 this subchapter or any of the rules and regulations issued in connection
11 therewith, or any officer, agent, or employee thereof, who directs or
12 knowingly permits such violation or who aids or assists such violation, shall
13 be guilty of a ~~misdemeanor~~ violation and upon conviction shall be subject to
14 a fine of not more than two hundred fifty dollars (\$250) and not less than
15 fifty dollars (\$50.00), and each violation shall constitute a separate
16 offense.

17

18 SECTION 135. Arkansas Code §§ 20-60-101 and 20-60-102 are amended to
19 read as follows:

20 20-60-101. Use of imported meat in food establishment.

21 (a)(1) As used in this section, "food service establishment" means ~~any~~
22 ~~fixed~~ any:

23 (A) Fixed or mobile restaurant, coffee shop, cafeteria,
24 short-order cafe, luncheonette, grille, tearoom, soda fountain, sandwich
25 shop, hotel kitchen, smorgasbord, tavern, bar, cocktail lounge, night club,
26 roadside stand, industrial feeding establishment, school lunch project,
27 private, public, or nonprofit organization or institution routinely serving
28 the public, catering kitchen, commissary, or similar place in which the food
29 or drink is prepared for sale or for service on the premises or elsewhere; ~~or~~
30 ~~any grocery~~

31 (B) Grocery store, delicatessen, meat market, retail
32 bakery, or other establishment which sells or otherwise provides food for
33 immediate or on-premise consumption, regardless of whether serving food for
34 immediate consumption is the primary activity of the business; ~~and any other~~
35 ~~eating or~~

36 (C) Eating and drinking establishment where food is served

1 or provided for the public with or without charge.

2 (2) The following places where food is served shall be exempt
3 from the definition of a food service establishment:

4 (A) Group homes routinely serving ten (10) or fewer
5 persons;

6 (B) Day-care centers routinely serving ten (10) or fewer
7 persons;

8 (C) Potluck suppers, community picnics, or other group
9 gatherings where food is served but not sold;

10 (D) Nonprofit organizations that sell food, on a temporary
11 basis, for fund-raising events; and

12 (E) Hospital kitchens and nursing home kitchens.

13 (b) All food service establishments shall indicate on their menus or
14 on a notice prominently placed in the establishment whether beef imported
15 from outside the United States is served if the proprietor of the
16 establishment knowingly, willfully, and consistently serves imported beef.

17 (c) Any person found guilty of violating this section shall be guilty
18 of a violation and upon conviction fined ten dollars (\$10.00) for the first
19 offense and twenty dollars (\$20.00) for the second or subsequent offense.

20
21 20-60-102. Arkansas bacon.

22 (a)(1) The term "Arkansas bacon" shall not be used to identify any
23 meat product other than the pork shoulder blade Boston roast prepared in
24 Arkansas in accordance with this section.

25 (2) Pork shoulder blade Boston roast prepared outside the State
26 of Arkansas but in the manner prescribed by this section may be identified as
27 "Arkansas-style bacon".

28 (b)(1) "Arkansas bacon" and "Arkansas-style bacon" are produced from
29 the pork shoulder blade Boston roast by removing the neck bones and rib bones
30 by cutting close to the underside of those bones, removing the blade bone or
31 scapula, and removing the dorsal fat covering, including the skin or clear
32 plate, and leaving no more than one-quarter inch (1/4") of the fat covering
33 the roast.

34 (2) The meat is then dry-cured with salt, sugar, nitrites, and
35 spices, and smoked with natural smoke. The meat may not be injected or soaked
36 in curing brine, nor may any artificial or liquid smoke be applied to the

1 meat.

2 (3) The pork shoulder blade Boston roast includes the porcine
3 muscle, fat, and bone cut interior of the second or third thoracic vertebrae
4 and posterior of the atlas joint or first cervical vertebrae, and dorsal of
5 the center of the humerus bone.

6 (c) Any person who labels or otherwise identifies meat contrary to the
7 provisions of this section shall be deemed guilty of a ~~misdemeanor~~ violation
8 punishable by a fine not to exceed one thousand dollars (\$1,000).

9

10 SECTION 136. Arkansas Code § 20-61-203 is amended to read as follows:
11 20-61-203. Penalties - Injunction.

12 (a)(1)(A) Any person who violates any provision of this subchapter for
13 which no ~~other~~ civil penalty is provided by this subchapter shall upon
14 conviction be guilty of a violation and subject to a fine of not more than
15 five hundred dollars (\$500).

16 (B) However, no person shall be subject to penalties under
17 this section for receiving for transportation any article in violation of
18 this subchapter if the receipt was made in good faith unless the person
19 refuses to furnish, on request of a representative of the Director of the
20 Arkansas Bureau of Standards the name and address of the person from whom he
21 or she received the article and copies of all documents, if there are any,
22 pertaining to the delivery of the article to him or her.

23 (2) All distributors, processors, wholesalers, or retailers who
24 are distributing or selling species of fish as catfish that are not within
25 the definition of "catfish" under § 20-61-202 shall be in violation of this
26 subchapter and shall be assessed a civil penalty of:

27 (A) Not less than five hundred dollars (\$500) nor more
28 than one thousand dollars (\$1,000) for a first violation;

29 (B) Not less than eight hundred dollars (\$800) nor more
30 than two thousand dollars (\$2,000) for a second violation within three (3)
31 years after the date of the first violation; and

32 (C) Not less than one thousand five hundred dollars
33 (\$1,500) nor more than two thousand five hundred dollars (\$2,500) for a third
34 violation within three (3) years after the date of the first violation.

35 (3) For a violation to be considered as a second or subsequent
36 violation, it must be a repeat of the violation in subdivision (a)(2) of this

1 section.

2 (4)(A) Any person subject to a civil penalty shall have a right
3 to request an administrative hearing within ten (10) calendar days after
4 receipt of the notice of the penalty.

5 (B) The State Plant Board is authorized to conduct the
6 hearing after giving appropriate notice, and its decision shall be subject to
7 judicial review.

8 (5)(A) If a violator has exhausted the administrative appeals
9 and the civil penalty is upheld, the violator shall pay the civil penalty
10 within twenty (20) calendar days after the date of the final decision.

11 (B) If the violator fails to pay the penalty, a civil
12 action may be brought by the board in any court of competent jurisdiction to
13 recover the penalty.

14 (C) Any civil penalty collected under this section shall
15 be transmitted to the State Plant Board Fund.

16 (b) Nothing in this subchapter shall be construed as requiring the
17 director to report for prosecution or for the institution of libel or
18 injunction proceedings any minor violations of this subchapter whenever he or
19 she believes that the public interest will be adequately served by a suitable
20 written notice of warning.

21 (c)(1) It shall be the duty of each prosecuting attorney to whom any
22 violation is reported to cause appropriate proceedings to be instituted and
23 prosecuted in a court of competent jurisdiction without delay.

24 (2) Before the director reports a violation for prosecution, an
25 opportunity shall be given the distributor or other affected person to
26 present his or her views to the director.

27 (d) The director is authorized to apply for and the court to grant a
28 temporary or permanent injunction restraining any person from violating or
29 continuing to violate any of the provisions of this subchapter or any rule or
30 regulation promulgated under this subchapter, notwithstanding the existence
31 of other remedies at law. The injunction shall be issued without bond.

32

33 SECTION 137. Arkansas Code § 20-61-301 is amended to read as follows:
34 20-61-301. Penalty - Injunction.

35 (a) Any person who knowingly ~~and intentionally~~ violates any provision
36 of this subchapter for which no ~~other~~ civil penalty is provided by this

1 subchapter shall upon conviction be guilty of a violation and subject to a
2 fine of not more than fifty dollars (\$50.00) for the first offense and not
3 more than five hundred dollars (\$500) for the second and subsequent offenses.

4 (b) Nothing in this subchapter shall be construed as requiring the
5 Director of the Arkansas Bureau of Standards to report for prosecution or for
6 the institution of libel or injunction proceedings any minor violations of
7 this subchapter whenever he or she believes that the public interest will be
8 adequately served by a suitable written notice of warning.

9 (c)(1) It shall be the duty of each prosecuting attorney to whom any
10 violation is reported to cause appropriate proceedings to be instituted and
11 prosecuted in a court of competent jurisdiction without delay.

12 (2) Before the director reports a violation for prosecution, an
13 opportunity shall be given the affected person to present his or her views to
14 the director.

15 (d) The director is authorized to apply for and the court is
16 authorized to grant a temporary or permanent injunction restraining any
17 person from violating or continuing to violate any of the provisions of this
18 subchapter or any rule or regulation promulgated under this subchapter,
19 notwithstanding the existence of other remedies at law. The injunction shall
20 be issued without bond.

21
22 SECTION 138. Arkansas Code § 20-62-101 is amended to read as follows:

23 20-62-101. Labels on certain drugs required.

24 (a) It shall be unlawful to sell at retail arsenic and its compounds,
25 strychnine and its salts, corrosive sublimate, hydrocyanic acid, phosphorus,
26 opium, morphine, laudanum, or any preparation of opium containing over two
27 (2) grains to the ounce without the container being plainly labeled in
28 English with the name of the article, the name of the seller, and the word
29 "POISON".

30 (b) Any person who violates any of the provisions of this section
31 shall be guilty of a violation and upon conviction be sentenced to pay a fine
32 of not less than twenty-five dollars (\$25.00) nor more than one hundred
33 dollars (\$100) for each offense.

34
35 SECTION 139. Arkansas Code § 20-77-504 is amended to read as follows:

36 20-77-504. Penalty.

1 (a) Any person violating this subchapter shall be guilty of a
2 ~~misdemeanor~~ violation and upon conviction shall be fined in any sum not less
3 than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

4 (b) Each violation shall constitute a separate offense and shall be
5 punishable as such.

6
7 SECTION 140. Arkansas Code § 20-78-203 is amended to read as follows:
8 20-78-203. Penalties.

9 (a)(1) Any person violating any provisions of this subchapter and any
10 person assisting any partnership, group, corporation, organization, or
11 association in violating any provisions of this subchapter shall be deemed
12 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in any
13 sum not less than twenty-five dollars (\$25.00) and not more than one hundred
14 dollars (\$100).

15 (2) Each day of the violation shall constitute a separate
16 offense.

17 (b)(1) The Division of Child Care and Early Childhood Education is
18 authorized to impose monetary fines as civil penalties to be paid for failure
19 to comply with the provisions of this subchapter or the regulations
20 promulgated pursuant thereto.

21 (2) In determining whether a civil penalty is to be imposed, the
22 following factors shall be considered by the division:

23 (A) The gravity of the violation, including the
24 probability that death or serious physical harm to a child will result or has
25 resulted, the severity and scope of the actual or potential harm, and the
26 extent to which the provisions of the applicable statutes or regulations were
27 violated;

28 (B) The exercise of good faith. Indications of good faith
29 include, but are not limited to, awareness of the applicable statutes and
30 regulations and reasonable diligence in securing compliance, prior
31 accomplishments manifesting the desire to comply with the requirements,
32 efforts to correct, and any other mitigating factors in favor of the
33 operator;

34 (C) Any relevant previous violations committed; and

35 (D) The financial benefit of committing or continuing the
36 violation.

1 (c) Prior to the imposition of monetary fines, the division shall
2 provide notice and an opportunity to be heard before the Child Care Appeal
3 Review Panel in accordance with hearing procedures in effect for the
4 revocation or suspension of licenses.

5 (d)(1) The division, with the review and approval of the Arkansas
6 Early Childhood Commission, shall publish and promulgate rules and
7 regulations classifying violations as follows:

8 (A) Class A violations involve essential standards which
9 must be met for substantial compliance to licensing requirements. These
10 standards address fire, health, safety, nutrition, staff to child ratio, and
11 space.

12 (B) Operation of an unlicensed child care facility shall
13 be considered a Class A violation. However, the definition of unlicensed
14 child care facility shall not be interpreted to include exempt child care
15 facilities as defined in § 20-78-209.

16 (C) Class A violations are subject to a civil penalty of
17 one hundred dollars (\$100) for each violation; and

18 (2)(A) Class B violations involve administrative standards and
19 standards which do not directly threaten the immediate health, safety, or
20 welfare of the children.

21 (B) Class B violations are subject to a civil penalty of
22 fifty dollars (\$50.00) for each violation.

23 (3) Each day of occurrence of a Class A or Class B violation
24 shall constitute a separate violation.

25 (4) Aggregate fines assessed for violation in any one (1) month
26 shall not exceed five hundred dollars (\$500) for Class A violations or two
27 hundred fifty dollars (\$250) for Class B violations.

28 (e) When a facility has been found by the division to have committed
29 Class A or Class B violations, then upon final administrative determination
30 by the panel, notice shall be posted in the facility stating the violations
31 found by the division to have occurred and the current status of the license.
32 This notice shall be posted in the facility, in a conspicuous place clearly
33 visible to all staff, to all other individuals in the facility, and to all
34 visitors to the facility.

35 (f) Failure to post a proper notice as required by this section shall
36 be considered to be a Class B violation for which civil penalties may be

1 imposed as authorized by this section. Each day of noncompliance constitutes
2 a separate offense.

3
4 SECTION 141. Arkansas Code § 21-8-202 is amended to read as follows:
5 21-8-202. Penalty.

6 (a) Any employee of the State of Arkansas, including employees of the
7 state-supported institutions of higher learning, who fails to file, or who
8 shall falsely file, any statement as required under the provisions of this
9 subchapter, shall be guilty of a ~~misdemeanor~~ violation.

10 (b) Upon conviction, he or she shall be fined in an amount not less
11 than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

12
13 SECTION 142. Arkansas Code § 21-12-101 is amended to read as follows:
14 21-12-101. Limitation of employment for preparers of certain grant
15 applications.

16 (a) Persons whose principal function in state employment is to apply
17 for or assist in the preparation of applications for state or federal grants
18 shall not, for a period of one (1) year after leaving state employment,
19 assist, for compensation, other persons applying for grants of state or
20 federal funds.

21 (b) Any person violating this section shall be guilty of a violation
22 and subject to a fine not exceeding five thousand dollars (\$5,000).

23
24 SECTION 143. Arkansas Code § 22-3-210 is amended to read as follows:
25 22-3-210. Trespassing upon State Capitol grounds.

26 (a) It shall be unlawful for any person to ride, drive, walk, go, or
27 enter upon the public lawns or grounds belonging to the State of Arkansas
28 whereon is located the State Capitol Building, unless such person confines
29 himself to the public driveways or walkways upon the grounds. However, this
30 section shall not apply to the custodian of any state institutions or
31 grounds, nor to any of his assistants, deputies, or employees, nor to any
32 grounds laid out and designated by the custodian as playgrounds or public
33 parks.

34 (b) Any person who violates subsection (a) of this section shall be
35 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined not more
36 than one hundred dollars (\$100).

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SECTION 144. Arkansas Code § 22-3-220 is amended to read as follows:

22-3-220. Smoking in State Capitol Building prohibited.

Any person smoking any cigarette, cigar, pipe, or other tobacco product in the State Capitol Building shall be guilty of a ~~misdemeanor~~ violation punishable by a fine of twenty-five dollars (\$25.00).

SECTION 145. Arkansas Code § 23-1-115 is amended to read as follows:

23-1-115. Citizens band radio equipment.

(a)(1) Citizens band radio equipment shall not be used unless that equipment is certified by the Federal Communications Commission.

(2) Citizens band radio equipment shall not be operated on a frequency between twenty-four megahertz (24 MHz) and thirty-five megahertz (35 MHz) without authorization from the commission.

(b) Nothing in this section shall be construed to affect any radio station that is licensed by the commission under 47 U.S.C. § 301.

(c)(1) A first violation of this section is a violation and punishable by a fine of one hundred dollars (\$100).

(2) A second or subsequent violation of this section is a ~~misdemeanor~~ and violation punishable by a fine not to exceed one thousand dollars (\$1,000).

SECTION 146. Arkansas Code § 23-2-409 is amended to read as follows:

23-2-409. Subpoenas - Failure to comply - Penalty.

The failure or refusal of any witness to appear or to produce any books, papers, or documents required by the Arkansas Public Service Commission or the Arkansas Transportation Commission [abolished] and to submit them to the inspection of the commission, or the refusal to answer any questions propounded by the commission, shall constitute a ~~misdemeanor~~ violation punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

SECTION 147. Arkansas Code § 23-13-101 is amended to read as follows:

23-13-101. Hours of duty and rest period of drivers - Penalties - Exceptions.

(a) It shall be unlawful for any companies, firms, or corporations, or

1 officers of courts or individuals owning, operating, leasing, or subleasing
2 any lines using vehicles propelled by any form of energy on the highways of
3 Arkansas for the purpose of transporting passengers, freight, mail, express,
4 or any commodity to keep their drivers on duty more than fifteen (15)
5 consecutive hours. At the expiration of fifteen (15) hours of duty, the
6 driver must have at least eight (8) hours of rest.

7 (b) Any companies, firms, corporations, lessees or sublessees, or
8 individuals violating any of the provisions of this section shall be guilty
9 of a ~~misdemeanor~~ violation and upon conviction shall be fined not less than
10 fifty dollars (\$50.00) nor more than five hundred dollars (\$500). Each
11 vehicle illegally operated as provided in this section shall constitute a
12 separate offense.

13 (c) This section shall not apply in case of wrecks or washouts.
14

15 SECTION 148. Arkansas Code § 23-13-234 is amended to read as follows:

16 23-13-234. Operation without certificate or permit prohibited -
17 Violation of terms, conditions, etc., of certificate, permit, or license
18 prohibited.

19 (a)(1) Any motor carrier using the highways of this state without
20 first having obtained a permit or certificate from the Arkansas
21 Transportation Commission [abolished], as provided by this subchapter, or
22 who, being a holder thereof, violates any term, condition, or provision
23 thereof, shall be subject to a civil penalty to be collected by the
24 commission, after notice and hearing, in an amount of not less than one
25 hundred dollars (\$100) nor more than five hundred dollars (\$500).

26 (2) If the penalty is not paid within ten (10) days from the
27 date of the order of the commission assessing the penalty, twenty-five
28 percent (25%) thereof shall be added to the penalty.

29 (3) Any amounts collected from the penalties provided for under
30 this subsection shall be deposited by the commission in the State Treasury to
31 the credit of the General Revenue Fund Account of the State Apportionment
32 Fund.

33 (b) Any person required by this subchapter to obtain a certificate of
34 convenience and necessity as a common carrier or a permit as a contract
35 carrier and operates as such a carrier without doing so shall be deemed
36 guilty of a ~~misdemeanor~~ violation. Upon conviction he or she shall be fined

1 not less than one hundred dollars (\$100) nor more than five hundred dollars
2 (\$500) for the first such offense, and not less than one hundred dollars
3 (\$100) nor more than one thousand dollars (\$1,000) for each subsequent
4 offense. Each day of the violation shall be a separate offense.

5 (c)(1) Any person violating any other provision or any term or
6 condition of any certificate, permit, or license, except as otherwise
7 provided in § 23-13-258, shall be guilty of a ~~misdemeanor~~ violation and upon
8 conviction shall be fined not more than one hundred dollars (\$100) for the
9 first offense and not more than five hundred dollars (\$500) for any
10 subsequent offense. Each day of the violation shall constitute a separate
11 offense.

12 (2) In addition thereto, the person shall be subject to the
13 civil penalties provided in subsection (a) of this section.

14

15 SECTION 149. Arkansas Code § 23-13-258 is amended to read as follows:

16 23-13-258. Operation of motor vehicle while in possession of,
17 consuming, or under influence of any controlled substance or intoxicating
18 liquor prohibited.

19 (a)(1) Any person operating or being in physical control of a motor
20 vehicle, which motor vehicle is susceptible at the time of such operation or
21 physical control to any regulations of the State Highway Commission regarding
22 the safety of operation and equipment of that motor vehicle, who commits any
23 of the following acts shall be guilty of a ~~misdemeanor~~ violation and upon
24 conviction for the first offense shall be subject to a fine of not less than
25 two hundred dollars (\$200) nor more than one thousand dollars (\$1,000):

26 (A) Operating or being in physical control of such a motor
27 vehicle if he or she possesses, is under the influence of, or is using any
28 controlled substance;

29 (B) Operating or being in physical control of such a motor
30 vehicle if he or she possesses, is under the influence of, or is using any
31 other substance which renders him or her incapable of safely operating a
32 motor vehicle;

33 (C) Consumption of or possession of an intoxicating
34 liquor, regardless of its alcoholic content, or being under the influence of
35 an intoxicating liquor while in physical control of such a motor vehicle.
36 Provided, no person shall be considered in possession of an intoxicating

1 liquor solely on the basis that an intoxicating liquor or beverage is
2 manifested and being transported as part of a shipment.

3 (2) Upon second and subsequent convictions, that person shall be
4 subject to a fine of not less than five hundred dollars (\$500) nor more than
5 one thousand dollars (\$1,000).

6 (b) For the purposes of this section the term "controlled substance"
7 shall have the same meaning ascribed to that term in the Uniform Controlled
8 Substances Act, §§ 5-64-101 - 5-64-608, and the regulations issued pursuant
9 to that act.

10 (c) Nothing in this section is intended to abrogate any of the
11 provisions of the Omnibus DWI Act, § 5-65-101 et seq., and any person
12 violating any of the provisions of subsection (a) of this section, who may be
13 charged with a violation of the Omnibus DWI Act, § 5-65-101 et seq., shall be
14 so charged with a violation of that act rather than with a violation of this
15 section.

16
17 SECTION 150. Arkansas Code § 23-38-102 is amended to read as follows:

18 23-38-102. Annual reports.

19 (a)(1) Within sixty (60) days after December 31 each year, every
20 building and loan association operating under the provisions of this act
21 shall file with the Securities Commissioner a statement of its financial
22 condition at the close of its business on December 31 setting forth such
23 details of its financial condition upon such blanks as may be prescribed by
24 the commissioner.

25 (2) Failure to file the statement within the time mentioned,
26 unless an extension of time is granted in writing by the commissioner, shall
27 be a ~~misdemeanor~~ and violation punishable by a fine of one hundred dollars
28 (\$100) for each day the statement is delinquent. The fine shall be assessed
29 against the secretary of the association by any court of competent
30 jurisdiction, upon complaint of the commissioner.

31 (b) The commissioner shall annually file with the Governor a report of
32 the name, officers, directors, domicile, and financial statement of each
33 building and loan association. This report shall be published in book form.
34

35 SECTION 151. Arkansas Code § 23-38-402 is amended to read as follows:

36 23-38-402. Publication of false advertisement or report of financial

1 condition.

2 Every director, officer, or agent of any building and loan association
3 doing business in this state who knowingly concurs in making, publishing,
4 circulating, or posting, either generally or privately to the stockholders or
5 others, any advertisement, sign, written report, exhibit; statement of its
6 affairs or financial condition, written or verbal; any book or notice
7 containing any material statement which is false; or any untrue ~~or willfully~~
8 or fraudulently exaggerated reports, prospectus, account, statement of
9 operations, values, business, profits, expenditures, or prospectus of any
10 other property or documents intended to produce or give the shares of stock
11 in the association a greater value or a less apparent or market value than
12 they really possess, or which misrepresent in any way the powers or
13 liabilities of the association, shall be deemed guilty of a ~~misdemeanor~~
14 violation and upon conviction shall be punished by a fine not exceeding five
15 hundred dollars (\$500).

16

17 SECTION 152. Arkansas Code § 23-40-119 is amended to read as follows:

18 23-40-119. Annual report and fee.

19 (a) Each organization shall file an annual report and an annual report
20 fee with the Insurance Commissioner on or before March 15 of each year in
21 such form as the commissioner may require, showing the names or account
22 numbers, or both, of all persons with whom contracts for prepaid funeral
23 benefits have been made prior to January 1 of that year which had not been
24 fully discharged on January 1, and also showing the date of contract, the
25 name of the trustee holding the trust fund, and the amount in the trust fund
26 under each contract on the preceding December 31.

27 (b) If any officer of any organization fails or refuses to file an
28 annual report, or to cause it to be filed within thirty (30) days after he or
29 she has been notified by the commissioner that the report is due and has not
30 been received, then, upon a finding of such failure by a court of competent
31 jurisdiction, he or she shall be guilty of a ~~misdemeanor and shall be~~
32 ~~punished as prescribed in this chapter~~ violation.

33 (c) Effective on and after March 15, 1997, the annual report fee shall
34 be based on the total amount of aggregate contracts for prepaid funeral
35 benefits outstanding and unfulfilled as of December 31 of each year and shall
36 be payable at the time the annual report is filed. The fee shall be based on

1 the following schedule and shall be payable to the State Insurance Department
2 Prepaid Trust Fund:

3 AGGREGATE AMOUNT OF OUTSTANDING	ANNUAL
4 PREPAID FUNERAL BENEFITS CONTRACTS	FEE DUE STATE
5 IN ARKANSAS	OF ARKANSAS
6 Up to \$250,000	\$200.00
7 Over \$250,001 to \$500,000	\$250.00
8 \$500,001 to \$1,000,000	\$500.00
9 \$1,000,001 to \$2,500,000	\$1,000.00
10 \$2,500,001 to \$5,000,000	\$2,000.00
11 \$5,000,001 to \$10,000,000	\$3,000.00
12 \$10,000,001 to \$20,000,000	\$4,000.00
13 \$20,000,001 to \$40,000,000	\$5,000.00
14 Over \$40,000,001	\$6,000.00

15 (d)(1)(A)(i)(a) Effective for all prepaid funeral benefits contracts
16 executed on and after April 1, 1997, each licensee selling a prepaid funeral
17 benefits contract shall remit to the State Insurance Department a one-time
18 per-contract fee of not less than five dollars (\$5.00) for each prepaid
19 funeral benefits contract, including any amendments thereto, entered into by
20 the licensee whether cash or trust funded or funded by an insurance policy or
21 annuity contract, unless the per-contract fees are otherwise eliminated or
22 suspended by the commissioner pursuant to a rule or regulation.

23 (b) However, the per-contract fees once
24 eliminated or suspended by rule of the commissioner may be reinstated by
25 subsequent rule and regulation of the commissioner adopted upon a public
26 hearing at a later date upon the commissioner's determination that these fees
27 are essential and necessary to the operation of the State Insurance
28 Department Prepaid Funeral Division.

29 (ii) On and after July 1, 2001, the commissioner
30 shall then transfer from each per-contract fee remitted to the department,
31 into the Prepaid Funeral Contracts Recovery Program Fund pursuant to this
32 act, a portion of the fee in an amount to be determined by rules and
33 regulations of the commissioner, and thereafter to be administered by the
34 commissioner with advice from the Prepaid Funeral Contracts Recovery Program
35 Board, pursuant to the provisions of this subchapter.

36 (B) The per-contract fees shall be remitted quarterly to

1 the department for each quarter of the calendar year, with a quarterly fee
2 form as prescribed by the commissioner.

3 (C) The fees shall be remitted to the department no later
4 than forty-five (45) days after each quarter.

5 (2)(A)(i) The commissioner on and after July 1, 2001, may by
6 rule or regulation eliminate, reduce, suspend, or increase the per-contract
7 fee or the portion of the per-contract fee allotted to the Prepaid Funeral
8 Contracts Recovery Program Fund.

9 (ii) The per-contract fee may be charged to the
10 purchaser of the contract.

11 (B) Any fee so charged and collected shall not be deemed
12 to be included in the term "contract proceeds", as defined in § 23-40-103(4),
13 and shall not be subject to the deposit requirements of § 23-40-114(a).

14 (e)(1) Absent the commissioner's approval of an extension for good
15 cause shown, licensees failing to timely report and pay any administrative
16 and financial regulations fees to the State Insurance Department Prepaid
17 Trust Fund may be subject to a penalty of one hundred dollars (\$100) per day
18 for each day of delinquency, payable to the fund.

19 (2) The commissioner shall deposit all administrative and
20 financial regulation fees and any penalties assessed under this section
21 directly into the fund as special revenues.

22 (f)(1) Notwithstanding the provisions of § 23-40-107, if there are any
23 unused funds from fees collected from organizations under subsections (c) and
24 (d) of this section not disbursed for personal services, operating expenses,
25 maintenance and operations, and support and improvements for the Division of
26 Prepaid Funeral Benefits of the State Insurance Department, such excess
27 funds, if any, may be transferred to the Prepaid Funeral Contracts Recovery
28 Program Fund to provide reparations to purchasers of prepaid funeral
29 contracts who have purchased cash-funded prepaid funeral contracts from
30 organizations which have been:

31 (A) Declared insolvent by a state or federal court of
32 competent jurisdiction; or

33 (B) Determined by either the commissioner or a state or
34 federal court of competent jurisdiction to have fund account deficiencies.

35 (2) Purchasers of prepaid funeral contracts requesting any
36 discretionary relief from the Prepaid Funeral Contracts Recovery Program Fund

1 after July 1, 2001, may include the contract holder or his or her surviving
2 family representative, or such other person as described in rules and
3 regulations of the department.

4 (3) The commissioner may by rule and regulation describe the
5 procedures, claim forms, qualifications, and process of filing a claim for
6 aggrieved purchasers desiring to make a claim for reparations from any excess
7 funds.

8 (4) No purchaser is hereby provided in this section with any
9 administrative right or legal or equitable right to any funds collected from
10 fees collected under this section to satisfy any judgment or economic loss of
11 the purchaser from a prepaid funeral organization, except to the extent that
12 the commissioner, in his or her discretion, has set aside funds to provide
13 discretionary relief to purchasers of prepaid funeral contracts from
14 insolvent prepaid funeral organizations or those organizations with trust
15 fund account shortages, and subject to limits of the Prepaid Funeral
16 Contracts Recovery Program Fund and the claimant's actual contract payments
17 made, excluding additional damages or interest or other equitable relief, or
18 noneconomic damages.

19

20 SECTION 153. Arkansas Code § 23-66-316 is amended to read as follows:

21 23-66-316. Advertising by health and accident insurers and prepaid
22 health plans.

23 (a) It shall be unlawful for any insurance company or association
24 transacting any health and accident or hospital or surgical insurance or
25 prepaid hospital and surgical or health care plan in this state, in violation
26 of a prior order or regulation of the Insurance Commissioner directed to the
27 company or association, to make, issue, circulate, or place before the public
28 or to cause the making, issuing, circulation, or placing before the public,
29 in a newspaper, magazine, or other publication, or in the form of a notice,
30 brochure, circular, pamphlet, letter, or poster, or by way of any radio or
31 television station, or in any other way or manner, any advertisement,
32 announcement, or statement with respect to the terms, benefits, premiums, or
33 advantages of the policy or plan, unless and until the advertisement,
34 announcement, or statement has been filed with and approved by the
35 commissioner, pursuant to the prior order or regulation, as not being untrue,
36 deceptive, or misleading in any respect.

1 (b) Any company or association violating the provisions of this
2 section shall be guilty of a ~~misdemeanor~~ violation and upon a first
3 conviction shall be fined not less than one hundred dollars (\$100) nor more
4 than five hundred dollars (\$500) and for a second or subsequent conviction
5 shall be fined not less than five hundred dollars (\$500) nor more than five
6 thousand dollars (\$5,000). Each violation shall constitute a separate
7 offense.

8
9 SECTION 154. Arkansas Code § 23-110-205 is amended to read as follows:
10 23-110-205. Hearings.

11 (a)(1) In the event any franchise holder or person is aggrieved by any
12 action of the Arkansas Racing Commission, he or she shall be entitled to a
13 hearing by the commission.

14 (2) The hearing shall be held at such place in the State of
15 Arkansas and at such time as the commission may designate. Notice shall be
16 served to those parties affected by mailing to those parties by registered
17 United States mail the notice of the time and place that the hearing will be
18 held.

19 (3) In conducting the hearing, the commission shall not be bound
20 by technical rules of evidence.

21 (4) Any of the parties affected by the hearing may be
22 represented by counsel and shall have the right to introduce evidence. In
23 its discretion, the commission may likewise be represented by counsel at the
24 hearing, and such counsel shall participate in the conduct of the hearing for
25 and on behalf of the commission.

26 (b)(1)(A) For purposes of conducting the hearing, the commission shall
27 have the power to administer oaths, issue subpoenas, and compel the
28 attendance and testimony of witnesses.

29 (B) Any person who has been served with a subpoena to
30 appear and testify issued by the commission in the course of an inquiry or
31 hearing conducted under the provisions of this chapter and who refuses and
32 neglects to appear or testify relative to the hearing as commanded in the
33 subpoena shall be guilty of a ~~misdemeanor~~ violation, and upon conviction
34 shall be fined not less than fifty dollars (\$50.00) nor more than five
35 hundred dollars (\$500).

36 (2) In connection with any hearing, the commission or the

1 aggrieved may cause the deposition of witnesses within or without the state
2 to be taken in the manner of prescribed by existing statutes for the taking
3 of depositions in this state.

4 (c) All hearings shall be held before at least three (3) members of
5 the commission, and the concurrence of at least three (3) members of the
6 commission shall be necessary for any finding or order.

7 (d)(1) At the conclusion of the hearing, the commission shall make its
8 findings to be the basis for the action taken by the commission.

9 (2) The findings and order shall be subject to review in the
10 Pulaski County Circuit Court, from which an appeal may be taken to the
11 Arkansas Supreme Court.

12

13 SECTION 155. Arkansas Code § 23-110-308 is amended to read as follows:
14 23-110-308. Employees.

15 (a)(1) Each franchise holder under this chapter shall require each of
16 its employees to complete a written application for employment. Among other
17 things, the application shall state:

18 (A) Whether the applicant is a registered voter in
19 Arkansas; and

20 (i) Holder of a temporary franchise acquires a site
21 and commences construction within the ninety-day period but fails to complete
22 construction and be open for business within one (1) year next following the
23 end of the ninety-day period;

24 (ii) Construction by the holder of a temporary
25 franchise is not in substantial compliance with the plans and specifications
26 theretofore filed with, and approved by, the commission; or

27 (iii) Aggregate total of costs of acquisition of a
28 site, construction of buildings and facilities, and purchase of equipment by
29 the holder of a temporary franchise is less than three million dollars
30 (\$3,000,000).

31 (2) However, nothing contained in this section shall be so
32 construed as to prohibit mutual agreement on the part of the commission and
33 the corporation to making such changes in the plans and specifications for
34 construction as may be deemed necessary or desirable, but no changes may be
35 agreed to which will have the effect of reducing the total aggregate cost of
36 plant and equipment below three million dollars (\$3,000,000).

1 (b)(1) Upon completion of any plant, within the time, in the manner,
2 and at the minimum cost as provided in subsection (a) of this section and
3 upon the payment of a franchise fee in the amount of twenty-five thousand
4 dollars (\$25,000) to the commission by the holder of the temporary franchise,
5 the commission shall issue its franchise in exchange for the temporary
6 franchise held by the corporation. The corporation may then proceed to
7 conduct horse racing meets in accordance with the provisions of this chapter
8 or other applicable law.

9 (2) The franchise shall thereafter be effective in the hands of
10 the corporation unless and until terminated by operation of law, or sooner if
11 terminated by the commission based upon the corporation's failure to comply
12 with applicable horse racing laws or by the voluntary forfeiture of the
13 franchise by the franchise holder.

14
15 SECTION 156. Arkansas Code § 23-110-415 is amended to read as follows:
16 23-110-415. Failure to pay tax.

17 (a) Any franchise holder failing or refusing to pay the amount found
18 to be due the Arkansas Racing Commission from any tax provided for or imposed
19 by this chapter shall be guilty of a ~~misdemeanor~~ violation and, upon
20 conviction, shall be punished by a fine of not more than five thousand
21 dollars (\$5,000), in addition to the amount due from the franchise holder as
22 provided in this chapter.

23 (b) All fines paid into any court of this state by a franchise holder
24 found guilty of violating this section shall be paid over by the clerk of the
25 court to the commission within ten (10) days after it has been paid to the
26 clerk by the franchise holder.

27
28 SECTION 157. Arkansas Code § 23-111-205 is amended to read as follows:
29 23-111-205. Hearings.

30 (a)(1) In the event any franchise holder or person is aggrieved by any
31 action of the Arkansas Racing Commission, he or she shall be entitled to a
32 hearing by the commission.

33 (2) The hearing shall be held at such place in the State of
34 Arkansas and at such time as the commission may designate. Notice shall be
35 served on the party affected by mailing the notice of the time and place that
36 the hearing will be held by registered or certified United States mail to the

1 party affected.

2 (3) In conducting the hearing, the commission shall not be bound
3 by technical rules of evidence.

4 (4) Any party affected in the hearing may be represented by
5 counsel and shall have the right to introduce evidence, and the commission
6 may in its discretion likewise be represented by counsel at the hearing. The
7 counsel shall participate in the conduct of the hearing for and on behalf of
8 the commission.

9 (b)(1) For purposes of conducting a hearing, the commission shall have
10 the power to administer oaths, issue subpoenas, and compel the attendance and
11 testimony of witnesses.

12 (2) Any person who has been served with a subpoena to appear and
13 testify issued by the commission in the course of an inquiry or hearing
14 conducted under the provision of this chapter and who shall refuse and
15 neglect to appear or testify relative to the hearing as commanded in the
16 subpoena shall be guilty of a ~~misdemeanor violation~~, and upon conviction,
17 shall be fined not less than fifty dollars (\$50.00) nor more than five
18 hundred dollars (\$500).

19 (3) In connection with any hearing, the commission or the
20 aggrieved may cause the deposition of witnesses within or without the state
21 to be taken in the manner prescribed by existing statutes for the taking of
22 depositions in this state.

23 (c) All hearings shall be held before at least three (3) members of
24 the commission, and the concurrence of at least three (3) members of the
25 commission shall be necessary for any finding or order.

26 (d) At the conclusion of the hearing, the commission shall make its
27 findings to be the basis for the action taken by the commission. The findings
28 and order shall be subject to review in the Pulaski County Circuit Court,
29 from which an appeal may be taken to the Arkansas Supreme Court.

30

31 SECTION 158. Arkansas Code § 23-111-513 is amended to read as follows:
32 23-111-513. Failure to pay tax.

33 (a) Any franchise holder failing or refusing to pay the amount found
34 to be due the Arkansas Racing Commission from any tax provided for or imposed
35 by this chapter shall be guilty of a ~~misdemeanor violation~~, and upon
36 conviction, shall be punished by a fine of not more than five thousand

1 dollars (\$5,000) in addition to the amount due from the franchise holder as
2 provided in this chapter.

3 (b) All fines paid into any court of this state by a franchise holder
4 found guilty of violating this section shall be paid over by the clerk of the
5 court to the commission within ten (10) days after the fines shall have been
6 paid to the clerk by the franchise holder.

7

8 SECTION 159. Arkansas Code § 25-18-403 is amended to read as follows:
9 25-18-403. Penalty.

10 Any person who violates the provisions of this subchapter shall be
11 deemed guilty of a ~~misdemeanor punishable~~ violation and punished by a fine
12 not exceeding five hundred dollars (\$500).

13

14 SECTION 160. Arkansas Code § 26-2-101 is amended to read as follows:
15 26-2-101. Violations by officials generally.

16 A violation of any provision or failure to comply with any of the
17 requirements of this act by any of the officers enumerated in this chapter
18 shall be a violation and malfeasance in office. Upon conviction, an officer
19 shall pay a fine of not more than five hundred dollars (\$500) and be removed
20 from office.

21

22 SECTION 161. Arkansas Code § 26-2-104 is amended to read as follows:
23 26-2-104. Violations in assessment or equalization generally.

24 Whoever shall violate any provision of law intended to secure the
25 assessment or equalization of property, for which a penalty has not otherwise
26 been provided, or neglects or refuses to obey any lawful requirement or order
27 made by the county equalization board, shall be deemed guilty of a
28 ~~misdemeanor~~ violation and, upon conviction, shall be fined not less than ten
29 dollars (\$10.00) nor more than one hundred dollars (\$100).

30

31 SECTION 162. Arkansas Code § 26-2-107 is amended to read as follows:
32 26-2-107. Disposition of property to avoid assessment.

33 If any person shall, for the purpose of avoiding listing for the
34 payment of taxes any property subject to taxation, sell, give away, or
35 otherwise dispose of the property, under or subject to any agreement
36 expressed or implied, or any understanding with the purchaser, donee, or

1 recipient thereof, that it is to be reconveyed, restored, or redelivered to
2 the person so disposing of the property, he or she shall be guilty of a
3 violation and upon conviction be fined not less than five hundred dollars
4 (\$500) nor more than one thousand dollars (\$1,000).

5
6 SECTION 163. Arkansas Code § 26-2-109 is amended to read as follows:

7 26-2-109. Collector purchasing tax land.

8 No collector or his or her deputy shall, either directly or indirectly,
9 be concerned in the purchase of any tract of land or town lot sold for the
10 payment of taxes, ~~under the penalty of five hundred dollars (\$500), to be~~
11 ~~recovered by indictment.~~ A person violating this section shall be guilty of
12 a violation and subject to a fine of five hundred dollars (\$500).

13
14 SECTION 164. Arkansas Code § 26-3-306 is amended to read as follows:

15 26-3-306. Disabled veterans, surviving spouses, and minor dependent
16 children.

17 (a)(1)(A)(i) A disabled veteran who has been awarded special monthly
18 compensation by the Department of Veterans Affairs for the loss of, or the
19 loss of use of, one (1) or more limbs, or for total blindness in one (1) or
20 both eyes, or for service-connected one hundred percent (100%) total and
21 permanent disability shall be exempt from payment of all state taxes on the
22 homestead and personal property owned by the disabled veteran.

23 (ii) In the event that the veteran sells his or her
24 home, the exemption shall be prorated to the date of sale so that the veteran
25 shall owe no tax for the portion of the year he or she claimed the home as a
26 homestead, and the purchaser shall be liable only for taxes relating to the
27 balance of the year. Upon request by the veteran, the county collector shall
28 make such record entries as may be necessary to effect the proration.

29 (B)(i) Upon the death of the disabled veteran, the
30 surviving spouse and minor dependent children of the disabled veteran shall
31 be exempt from payment of all state taxes on the homestead and personal
32 property owned by the surviving spouse and minor dependent children of the
33 deceased disabled veteran.

34 (ii) The surviving spouse and minor dependent
35 children of a member of the United States ~~armed forces~~ Armed Forces who was
36 killed while within the scope of his or her military duties, who died while

1 within the scope of his or her military duties, or who is missing in action
2 and the surviving spouse and minor dependent children of a veteran who died
3 from service-connected causes, as certified by the Department of Veterans
4 Affairs, shall also be exempt from payment of all state taxes on the
5 homestead and personal property owned by the surviving spouse and minor
6 dependent children.

7 (iii) The surviving spouse shall be entitled to the
8 exemption provided for in this section so long as the spouse remains
9 unmarried.

10 (iv) A surviving spouse of a member of the armed
11 forces who died while on active duty shall be eligible for reinstatement of
12 the homestead and personal property tax exemption upon termination of a
13 subsequent marriage and until the surviving spouse remarries.

14 (v) The exemption provided in this section for
15 surviving minor dependent children shall be available to the children during
16 their minority.

17 (2) As used in this section, the term "personal property" shall
18 mean only those items of tangible personal property used for other than a
19 commercial or business purpose.

20 (b)(1)(A) A disabled veteran eligible for the exemption provided for
21 in this section and desiring to claim an exemption shall furnish to the
22 collector a letter from the Department of Veterans Affairs verifying the fact
23 that he or she is in receipt of special monthly compensation for the loss of,
24 or the loss of use of, one (1) or more limbs, or total blindness in one (1)
25 or both eyes, or for service-connected one hundred percent (100%) total and
26 permanent disability.

27 (B)(i) A surviving spouse or dependent minor child of a
28 deceased disabled veteran desiring to claim the exemption provided in this
29 section shall furnish the collector a letter from the Department of Veterans
30 Affairs verifying the fact that the deceased disabled veteran was at the time
31 of death entitled to receive a special monthly compensation for the loss of,
32 or the loss of use of, one (1) or more limbs, or total blindness in one (1)
33 or both eyes, or for service-connected one hundred percent (100%) total and
34 permanent disability.

35 (ii) In addition thereto, a claimant shall furnish
36 the collector with an affidavit signed by the claimant stating that the

1 claimant is a surviving spouse or minor dependent child of the named deceased
2 disabled veteran.

3 (2)(A) The surviving spouse or minor dependent children of a
4 member of the United States Armed Forces who was killed while within the
5 scope of his or her military duties, who died while within the scope of his
6 military duties, or who is missing in action, or a surviving spouse or minor
7 dependent children of a veteran who died of service-connected causes, as
8 certified by the Department of Veterans Affairs, desiring to claim the
9 exemption provided in this section shall furnish the collector a letter from
10 the Department of Veterans Affairs certifying the fact that such a member of
11 the United States Armed Forces is missing in action, was killed while within
12 the scope of his military duties, or died while within the scope of his or
13 her military duties, or that the veteran died from service-connected causes,
14 and the surviving spouse is or would be entitled to Department of Veterans
15 Affairs benefits in the form of death indemnity compensation if the surviving
16 spouse were otherwise eligible to receive the Department of Veterans Affairs
17 benefits.

18 (B) In addition, the claimant shall furnish the collector
19 with an affidavit signed by the claimant or claimant's guardian stating that
20 the claimant is a surviving spouse or minor dependent child of the member of
21 the United States Armed Forces who is missing in action, who was killed while
22 within the scope of his or her military duties, or who died while within the
23 scope of his military duties, or is the surviving spouse or minor dependent
24 child of a veteran who died of service-connected causes as certified by the
25 Department of Veterans Affairs.

26 (c) Only disabled veterans and surviving spouses and minor dependent
27 children of disabled veterans who are citizens and residents of the State of
28 Arkansas shall be eligible for the exemption provided in this section.

29 (d) Any person evading or violating any of the provisions of this
30 section or attempting to secure benefits under this section to which he is
31 not entitled shall be guilty of a ~~misdemeanor~~ violation and upon conviction
32 shall be fined in any sum not less than one hundred dollars (\$100) nor more
33 than one thousand dollars (\$1,000), ~~and such costs as are provided by law in~~
34 ~~misdemeanor offenses.~~

35 (e) A person claiming the property tax exemption authorized by this
36 section shall not be entitled to claim the property tax credit authorized in

1 § 26-26-1118.

2

3 SECTION 165. Arkansas Code § 26-26-202 is amended to read as follows:

4 26-26-202. Refusal to give name or description of property.

5 It shall be unlawful for any person to refuse to give the assessor or
6 the appointed deputy his name and a complete and accurate description of his
7 personal and real property, together with the location and value of it. Any
8 person so refusing shall, upon conviction, be deemed guilty of a ~~misdemeanor~~
9 violation and shall be fined in any sum not less than ten dollars (\$10.00)
10 and not more than twenty-five dollars (\$25.00).

11

12 SECTION 166. Arkansas Code §§ 26-26-712 and 26-26-713 are amended to
13 read as follows:

14 26-26-712. Employees' names furnished on demand.

15 (a) Any person, partnership, company, or corporation having any person
16 in their employ shall be required to give the names of the employees to the
17 tax assessors, sheriffs, or tax collectors of the various counties when
18 demanded in their official capacity.

19 (b) Any person, partnership, company, or corporation, or their agents,
20 attorneys, or managers, ~~who~~ that shall violate this section shall be deemed
21 guilty of a ~~misdemeanor~~ violation and shall be fined in any sum not less than
22 ten dollars (\$10.00) nor more than one hundred dollars (\$100).

23

24 26-26-713. Filing of required lists.

25 (a) All lists required in §§ 26-26-705, 26-26-707, ~~26-26-708, 26-26-~~
26 ~~710 [repealed], and 26-26-711 [repealed]~~ and 26-26-708 by clerks, school
27 directors, and others shall be filed with the tax assessor of the various
28 counties on the first Monday in January of each year.

29 (b) The lists shall be filed in triplicate:

30 (1) One (1) to be forwarded by the assessor to the Arkansas
31 Public Service Commission;

32 (2) One (1) to be filed with the county clerk; and

33 (3) One (1) to be retained by the assessor.

34 (c) The list retained by the assessor shall be checked by him and used
35 in his or her endeavor to place all taxable property on the books. When his
36 or her books are closed, the assessor shall certify all of the lists to the

1 county court, and the certificate shall show whether the individuals have
2 made an assessment, and if not, why not, and what effort the assessor has put
3 forth in each case to secure an assessment by each individual thereon.

4 (d)(1) Any individual, school director, tax commissioner, tax
5 assessor, or other persons charged with duties who shall fail to perform
6 those duties shall be deemed guilty of a ~~misdemeanor~~ violation and upon
7 conviction shall be fined in any sum not less than one hundred dollars (\$100)
8 nor more than one thousand dollars (\$1,000).

9 (2) In case of any public official, upon conviction for a second
10 offense, he or she shall be removed from office.

11 (e) The commission shall prepare such forms as will ~~insure~~ ensure the
12 effective execution of these provisions.

13
14 SECTION 167. Arkansas Code § 26-26-1106 is amended to read as follows:
15 26-26-1106. Mobile home decal.

16 (a) Every owner of a mobile home shall be given a decal or sticker
17 from the county assessor upon assessing the mobile home for ad valorem tax
18 purposes, and the decal or sticker shall be attached to the mobile home by
19 the owner as evidence of assessment of it.

20 (b) The Assessment Coordination Division of the Arkansas Public
21 Service Commission shall promulgate rules and regulations to carry out the
22 provisions of subsection (a) of this section.

23 (c) Any mobile home owner who does not have a decal or sticker
24 attached to his mobile home after the deadline for personal property
25 assessment as is provided by law shall be guilty of a ~~misdemeanor~~ violation
26 and, upon conviction, shall be fined not less than five dollars (\$5.00) nor
27 more than fifty dollars (\$50.00).

28
29 SECTION 168. Arkansas Code § 26-28-306 is amended to read as follows:
30 26-28-306. Final tax settlements.

31 Under the system provided for in this subchapter:

32 (1) All county tax collectors' final tax settlements shall be
33 made and filed with the county court on or before the fourth Monday of
34 December each year;

35 (2)(A) It is the duty of the county court to pass upon the final
36 tax settlement of the collector and to approve, reject, or restate it on or

1 before December 31 of each year.

2 (B) Failure of the county judge to so approve, reject, or
3 restate the final tax settlement of the collector within this period of time
4 shall constitute a misfeasance in office and shall be deemed a ~~misdemeanor~~
5 violation, punishable by a fine of one hundred dollars (\$100) or removal from
6 office;

7 (3)(A) If the final tax settlement shall be found to be correct,
8 the county court shall order the settlement spread in full upon the records
9 of the county court.

10 (B)(i) The county clerk shall certify to the Auditor of
11 State, without delay, the action of the county court on the settlements,
12 whether approved or rejected.

13 (ii) If rejected, the collector shall at once
14 proceed to restate the settlement and again submit it to the county court;
15 and

16 (4) After the final tax settlement made by the collector has
17 been examined and acted upon by the county court, as provided in this
18 subchapter, the collector shall, on or before December 31 of each year, make
19 settlement with the county and its various subdivisions and with the Auditor
20 of State for all state taxes collected.

21
22 SECTION 169. Arkansas Code § 26-35-602 is amended to read as follows:

23 26-35-602. Tax money to be kept in separate account.

24 (a)(1) The Director of the Division of Local Affairs and Audits shall
25 require all collectors of taxes to keep any and all tax money collected in a
26 separate account from all other money which he or she may have in his or her
27 possession.

28 (2) The collectors shall have no authority to check on this
29 account except in favor of a treasurer or depository to whom he or she is
30 required to pay the money or to himself or herself for commission or salary
31 already earned.

32 (b)(1) Failure to comply with this section on the part of the
33 collector shall be a ~~misdemeanor~~ violation and render him or her liable to a
34 penalty of not less than twenty-five dollars (\$25.00). Each day's failure
35 shall be considered a separate offense.

36 (2) The director is directed, upon finding that public funds and

1 private funds are being jointly deposited or improperly disbursed under this
2 section, to notify immediately the bondsmen of the offending officer and the
3 public of the violation.

4
5 SECTION 170. Arkansas Code § 26-37-305 is amended to read as follows:
6 26-37-305. Rights of persons under disability.

7 (a) All lands or city or town lots belonging to insane persons,
8 minors, or persons in confinement that have been or may hereafter be sold for
9 taxes may be redeemed within two (2) years from and after the expiration of
10 such a disability.

11 (b)(1) In redemption of any such property by any person after the
12 expiration of such a disability, the purchaser shall be required to account
13 for all timber, gas, oil, or mineral substance taken from the land while
14 holding under such tax title and protect the rights of any person under
15 disability as provided in this section.

16 (2)(A) Persons desiring to take any timber, gas, oil, or mineral
17 substance from any land held under tax title within ten (10) years after the
18 sale for taxes shall first execute a bond in sufficient amount to cover the
19 substances to be removed, with good and sufficient sureties, conditioned that
20 the holder of the land will pay for all substances removed from the land in
21 case the land is redeemed under the provisions of this section.

22 (B) The bond shall be filed with, and approved by, the
23 clerk of the county court in the county where the property is located.

24 (c)(1) Any person removing timber, gas, oil, or mineral substance from
25 any land contrary to the provisions of this section and without first
26 executing the bond provided for shall be guilty of a ~~misdemeanor~~ violation
27 and shall be fined in any sum not less than twenty-five dollars (\$25.00) and
28 not more than double the amount of the substances removed.

29 (2) Persons may remove timber from lands cleared in good faith
30 for cultivation without becoming liable to the penalty provided in this
31 section.

32 (d) The county clerk shall keep a record of all certificates of
33 redemption of lands or town or city lots, or parts thereof, which were sold
34 for delinquent taxes and redeemed and shall retain the record of them for ten
35 (10) years from the date on which the redemption certificates were issued.
36 The clerk may thereafter, unless court order shall have been issued with

1 respect to any such certificate, destroy the record.

2

3 SECTION 171. Arkansas Code § 26-39-301 is amended to read as follows:

4 26-39-301. Penalty.

5 Any county collector of taxes who shall fail to file with the county
6 clerk a full and complete list of all delinquent personal taxes on the day
7 required by law shall be deemed guilty of a ~~misdemeanor~~ violation, punishable
8 by a fine of one hundred dollars (\$100) or removal from office.

9

10 SECTION 172. Arkansas Code §§ 26-39-401 and 26-39-402 are amended to
11 read as follows:

12 26-39-401. Penalty.

13 Any county clerk who fails to set up the settlement of the county
14 collector setting forth the amount due the various funds, on or before the
15 fourth Monday of December of each year, shall be deemed guilty of a
16 ~~misdemeanor~~ violation punishable by a fine of one hundred dollars (\$100) or
17 removed from office.

18

19 26-39-402. Review by county court.

20 (a) All county tax collectors' settlements shall be made and filed
21 with the county courts on or before the fourth Monday of December each year.

22 (b)(1) It is the duty of the county courts to pass upon the
23 settlements of the collectors and to approve, reject, or restate them on or
24 before December 31 of each year.

25 (2) Failure of the county judge to so approve, reject, or
26 restate the settlements of the collectors within this period of time shall
27 constitute a misfeasance in office and shall be deemed a ~~misdemeanor~~
28 violation, punishable by a fine of one hundred dollars (\$100) or removal from
29 office.

30

31 SECTION 173. Arkansas Code § 26-52-417 is amended to read as follows:

32 26-52-417. Motor fuels used in municipal buses.

33 (a) The gross receipts or gross proceeds derived from the sale of
34 motor fuels to owners or operators of motor buses operated on designated
35 streets according to regular schedule and under municipal franchise which are
36 used for municipal transportation purposes shall be exempt from the tax

1 levied in the Arkansas Gross Receipts Act, § 26-52-101 et seq.

2 (b) However, it shall be unlawful for the owners or operators of motor
3 buses operating under municipal franchise as provided in this section to use
4 any or permit the use of any motor fuels upon which the gross receipts tax
5 has not been paid in any motor vehicle other than motor buses operated on
6 designated streets according to regular schedules under municipal franchise.

7 (c)(1) Any owner or operator of motor buses permitting the motor fuels
8 to be used in violation of this section shall be guilty of a ~~misdemeanor~~
9 violation and, upon conviction, shall be fined in an amount of not less than
10 five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).

11 (2) In addition thereto, the owner or operator shall be liable
12 to the State of Arkansas for a penalty of triple the amount of gross receipts
13 due the State of Arkansas on any motor fuels upon which the taxes have not
14 been paid and used in violation of the provisions of this section.

15
16 SECTION 174. Arkansas Code § 26-53-117 is amended to read as follows:

17 26-53-117. Exemption for motor fuels used in municipal buses -
18 Penalties for abuse of exemption.

19 (a) The gross receipts or gross proceeds derived from the sale of
20 motor fuels to the owners or operators of motor buses operated on designated
21 streets according to regular schedule, under municipal franchise, which are
22 used for municipal transportation purposes, shall be exempt from the tax
23 levied in the Arkansas Compensating Tax Act, § 26-53-101 et seq.

24 (b) However, it shall be unlawful for the owners or operators of motor
25 buses operating under municipal franchise as provided in this section to use
26 any, or permit the use of any, motor fuels upon which the compensating tax
27 has not been paid in any motor vehicle other than motor buses operated on
28 designated streets according to regular schedules under municipal franchise.

29 (c)(1) Any owner or operator of motor buses permitting the motor fuels
30 to be used in violation of this section shall be guilty of a ~~misdemeanor~~
31 violation and upon conviction shall be fined in an amount of not less than
32 five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).

33 (2) In addition, the owner or operator shall be liable to the
34 State of Arkansas for a penalty of triple the amount of compensating tax due
35 the State of Arkansas on any motor fuels upon which the taxes have not been
36 paid and which were used in violation of the provisions of this section.

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SECTION 175. Arkansas Code § 26-55-234 is amended to read as follows:
26-55-234. Statements and reports from persons not distributors.

(a) Every person or terminal purchasing or otherwise acquiring motor fuel by pipeline, tank car, tank truck, or cargo lots and selling, using, or otherwise disposing of the motor fuel for delivery in Arkansas not required by the provisions of this subchapter to be licensed as a distributor in motor fuel shall file a statement setting forth the name under which the person is transacting business within the State of Arkansas, the location with the street number address of that person's principal office or place of business within the state, the name and address of the owner or the names and addresses of the partners if the person is a partnership, or the names and addresses of the principal officers if the person is a corporation or association.

(b)(1) On or before the twenty-fifth day of each calendar month, the person shall, on forms prescribed by the Director of the Department of Finance and Administration, report to the director all purchases or other acquisitions and sales or other disposition of motor fuel during the next preceding calendar month, giving a record of each tank car, tank truck, or cargo lot delivered to a point within the state and of all motor fuel otherwise delivered to him.

(2) The report shall set forth from whom each tank car or cargo lot was purchased or otherwise acquired, the point of shipment, to whom sold or shipped, the point of delivery, the date of shipment, the name of the carrier, the initials and number of the car, and the number of gallons contained in the tank car if shipped by rail, and the name and owner of the boat, barge, or vessel, and the number of gallons contained therein, if shipped by water, and shall contain any other additional information the director may require relative to the motor fuel.

(c) On or before the twenty-fifth day of each calendar month, the terminal shall, on forms prescribed by the Director of the Department of Finance and Administration, report to the director all purchases or other acquisitions and sales or other disposition or motor fuel during the next preceding calendar month, which report shall include the following:

- (1) Beginning inventories in gallons of motor fuel in storage;
- (2) Ending inventories in gallons of motor fuel in storage;

1 (3) Withdrawals of motor fuel in gallons from the pipeline
2 outlet resulting in additions of motor fuel to storage, including the name of
3 the distributor licensed as an importer who requested the placement of such
4 motor fuel into storage; and

5 (4) Removals of motor fuel from storage, specifically including:

6 (A) Bill of lading numbers which represent physical
7 movements of the motor fuel;

8 (B) The date of each removal;

9 (C) The quantity in gallons of motor fuel so removed;

10 (D) The person who had the motor fuel available for that
11 particular removal; and

12 (E) The person possessing a license from the Director of
13 the Department of Finance and Administration who requested the removal of
14 such motor fuel from that storage.

15 (d) When any person or terminal not required by the provisions of this
16 subchapter to register as a distributor in motor fuel, purchasing, or
17 otherwise acquiring motor fuel by pipeline, or in tank car, tank truck, or
18 cargo lots and selling or otherwise disposing of the motor fuel for delivery
19 in Arkansas, fails to submit his monthly report to the director by the
20 twenty-fifth day of each calendar month or, when the person or terminal fails
21 to submit in the monthly report the data required by this subchapter, the
22 person or terminal shall be guilty of a ~~misdemeanor~~ violation and shall be
23 fined an amount not greater than one hundred dollars (\$100) for the first
24 offense and shall be fined an amount not less than one hundred dollars (\$100)
25 nor more than one thousand dollars (\$1,000) for each subsequent offense.

26
27 SECTION 176. Arkansas Code § 26-56-208 is amended to read as follows:

28 26-56-208. Suppliers' and users' reports - Computation and remittance
29 of tax.

30 (a)~~(1)~~ On or before the twenty-fifth day of each calendar month, every
31 supplier shall file with the Director of the Department of Finance and
32 Administration, on forms prescribed by the director, a report accounting for
33 the distillate special fuels handled during the preceding month. The supplier
34 shall file supporting documents necessary to assure accurate reporting. The
35 reports shall include the following:

36 ~~(A)~~(1) An itemized statement of the number of gallons of

1 distillate special fuel received during the next-preceding calendar month by
2 the supplier;

3 ~~(B)(2)~~ An itemized statement of the number of gallons of
4 distillate special fuel received or sold during the next-preceding calendar
5 month and entitled to deduction or exemption under the provisions of this
6 subchapter;

7 ~~(C)(3)~~ Such other documents as the director requires; and

8 ~~(D)(4)~~ The total number of gallons of dyed distillate
9 special fuel sold to users during the next-preceding calendar month but shall
10 not contain an itemized listing identifying each purchaser.

11 (b)(1) When filing the report and paying the tax to the director as
12 required in this section, the supplier shall be entitled to deduct from the
13 total number of gallons upon which the tax levied hereunder is due, the
14 number of gallons:

15 (A) Purchased during the preceding calendar month from
16 another licensed supplier and upon which the tax levied hereunder was paid at
17 the time of that purchase; and

18 (B) Lost due to fire, flood, storm, theft, or other cause
19 beyond the supplier's control, other than through evaporation.

20 (2) The deduction for the loss may be included in the report
21 filed for the month in which such loss occurred or in any subsequent report
22 filed within a period of one (1) year.

23 (c)(1) Every pipeline company, water transportation company, and
24 common carrier transporting distillate special fuels to points within
25 Arkansas shall report under oath to the director, on forms prescribed by him,
26 all deliveries of distillate special fuels so made to points within Arkansas.

27 (2)(A) The reports shall cover monthly periods and shall be
28 submitted within twenty-five (25) days after the close of the month covered
29 by the report.

30 (B) The report shall show:

31 (i) The name and address of each person to whom
32 deliveries of fuel have actually been made;

33 (ii) The name and address of each originally named
34 consignee if fuel has been delivered to anyone other than the originally
35 named consignee;

36 (iii) The point of origin, point of delivery, and

1 date of delivery, as well as the name of the boat, barge, or vessel;

2 (iv) The number of gallons contained in the vessel,
3 if shipped by water;

4 (v) The license number of each tank truck;

5 (vi) The number of gallons contained in the tank if
6 transported by motor truck;

7 (vii) The point of origin, the name and address of
8 the person or terminal to whom the delivery was made, the date of the
9 delivery, and the quantity of distillate special fuels delivered, if shipped
10 by pipeline company; and

11 (viii) The manner and quantities, if delivered by
12 other means, in which such delivery is made.

13 (C) The reports shall also show such additional
14 information relative to shipments of distillate special fuels as the director
15 may require.

16 (d)(1) Every terminal purchasing or otherwise acquiring distillate
17 special fuels by pipeline and selling, using, or otherwise disposing of the
18 distillate special fuels for delivery in Arkansas not required by the
19 provisions of this subchapter to be licensed as a supplier in distillate
20 special fuels shall file a statement setting forth the name under which the
21 terminal is transacting business within the State of Arkansas, the location
22 with the street number address of that terminal's principal office or place
23 of business within the state, the name and address of the owner or the names
24 and addresses of the partners if the terminal is a partnership, or the names
25 and addresses of the principal officers if the terminal is a corporation or
26 association.

27 (2) On or before the twenty-fifth day of each calendar month,
28 the terminal shall, on forms prescribed by the Director of the Department of
29 Finance and Administration, report to the director all purchases or other
30 acquisitions and sales or other disposition of distillate special fuels
31 during the next-preceding calendar month, which report shall include the
32 following:

33 (A) Beginning inventories in gallons of distillate special
34 fuels in storage;

35 (B) Ending inventories in gallons of distillate special
36 fuels in storage;

1 (C) Withdrawals of distillate special fuels in gallons
2 from the pipeline outlet resulting in additions of distillate special fuels
3 to storage, including the name of the supplier licensed as an importer who
4 requested the placement of such distillate special fuels into storage; and

5 (D) Removals of distillate special fuels from storage,
6 specifically including:

7 (i) Bill of lading numbers which represent physical
8 movements of the distillate special fuels;

9 (ii) The date of each removal;

10 (iii) The quantity in gallons of distillate special
11 fuels so removed;

12 (iv) The person who had the distillate special fuels
13 available for that particular removal; and

14 (v) The person possessing a license from the
15 Director of the Department of Finance and Administration who requested the
16 removal of such distillate special fuels from that storage.

17 (3) When any terminal not required by the provisions of this
18 subchapter to register as a supplier in distillate special fuels, purchasing
19 or otherwise acquiring distillate special fuels by pipeline and selling or
20 otherwise disposing of the distillate special fuels for delivery in Arkansas,
21 fails to submit his monthly report to the director by the twenty-fifth day of
22 each calendar month, or when the terminal fails to submit in the monthly
23 report the data required by this subchapter, the terminal shall be guilty of
24 a ~~misdemeanor~~ violation and shall be fined an amount not greater than one
25 hundred dollars (\$100) for the first offense and shall be fined an amount not
26 less than one hundred dollars (\$100) nor more than one thousand dollars
27 (\$1,000) for each subsequent offense.

28
29 SECTION 177. Arkansas Code § 26-57-501 is amended to read as follows:
30 26-57-501. Penalties.

31 Any person, firm, partnership, limited liability company, or
32 corporation failing to comply with the provisions of this subchapter shall be
33 guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined in a sum
34 not less than one hundred dollars (\$100) nor more than one thousand dollars
35 (\$1,000).

36

1 SECTION 178. Arkansas Code § 26-58-106 is amended to read as follows:

2 26-58-106. Permits to engage in business.

3 (a)(1) Any individual or firm desiring to engage in the business of
4 severing natural resources or timber shall before entering upon such business
5 make application to the director for a license or permit.

6 (2) The applicant shall state under oath, in a form of
7 application to be prescribed by the director, his name and address, the
8 business in which he desires to engage, and the counties in which the
9 proposed severing is to be carried on.

10 (b) The applicant shall be deemed by his application to have agreed to
11 abide by the provisions of this subchapter and to promptly pay, when due, the
12 severance tax imposed by this subchapter⁺, and that such severance tax shall
13 constitute and remain a lien on each unit of production until paid to the
14 director.

15 (c) Upon the filing of such application, the director shall issue a
16 permit for which no charge shall be made.

17 (d) Whoever shall engage in the business of severing natural resources
18 or timber without first having made application for and secured such license
19 or permit shall be guilty of a ~~misdemeanor~~ violation and upon conviction
20 shall be fined not less than fifty dollars (\$50.00) nor more than five
21 hundred dollars (\$500).

22
23 SECTION 179. Arkansas Code § 26-58-115 is amended to read as follows:

24 26-58-115. Reports and payment due from producer actually severing or
25 from primary processor - Methods of accumulating tax payment - Penalty for
26 noncompliance.

27 (a) Except as otherwise provided in this subchapter, the monthly
28 reports shall be filed and the payment of the severance tax shall be made by
29 the producer actually severing the natural resources whether as owner,
30 lessee, concessionaire, or contractor and, in the case of severance taxes on
31 timber, the monthly reports shall be filed and the severance tax shall be
32 paid by the primary processor.

33 (b) The reporting taxpayer shall collect or withhold out of the
34 proceeds of the sale of the natural resources severed the proportionate parts
35 of the total severance tax due by the respective owners of such natural
36 resources at the time of severance.

1 (c) Every producer actually operating any oil or gas well, quarry, or
2 other property from which natural resources are severed, but under contract
3 or other obligation whereby payment directly to the owner of any royalty,
4 excess royalty, or working interest, either in money or in kind is required,
5 is hereby authorized, empowered, and required to deduct the amount of the
6 severance tax in respect thereto from any such royalty or other interest
7 before making such direct payment.

8 (d) All severed oil or gas sold or delivered to any pipeline company
9 for transportation by it through pipes connected with the oil or gas well of
10 the owner shall, notwithstanding such sale or delivery, be liable for the
11 severance tax thereon.

12 (e) A primary processor of timber shall be responsible for the payment
13 of severance taxes on all timber processed or acquired for processing by him
14 or her whether or not the primary processor collects or withholds the tax
15 from the producer.

16 (f) Any producer or primary processor failing or refusing to comply
17 with any of the provisions of this section shall be guilty of a ~~misdemeanor~~
18 violation and upon conviction shall be fined in any sum not less than one
19 hundred dollars (\$100) nor more than five hundred dollars (\$500) for each
20 such offense.

21
22 SECTION 180. Arkansas Code § 26-62-205 is amended to read as follows:
23 26-62-205. Sales tickets.

24 (a)(1) Each alternative fuels supplier shall have available a
25 sufficient number of sales tickets prepared in triplicate to cover sales of
26 alternative fuels under the provisions of this chapter.

27 (2) The forms shall be numbered and prepared with blank spaces
28 for the name and address of the alternative fuels supplier, the name and
29 address of the purchaser, the date of the purchase, the number of gallons
30 equivalent purchased, the total cost of fuels purchased including taxes, and
31 such other information as the director may require.

32 (b)(1) The sales tickets shall be issued in triplicate by the
33 alternative fuels supplier, shall be signed by the alternative fuels supplier
34 or his or her authorized agent, and the original and one (1) copy shall be
35 given to the purchaser.

36 (2) The remaining copy shall be retained by the seller as a

1 record for a period of at least three (3) years, during which period it shall
2 be subject to inspection by the director or his or her representative at all
3 reasonable times.

4 (c) The sales tickets as defined in subsections (a) and (b) of this
5 section shall be the only evidence accepted for tax credit by the director
6 under the provisions of § 26-62-209.

7 (d) Any licensed alternative fuels supplier or agent or employee of
8 such alternative fuels supplier who issues any sales ticket or invoice to any
9 user showing that the user has purchased a quantity of alternative fuels from
10 such alternative fuels supplier, agent, or employee, when in fact such user
11 has not purchased alternative fuels or has purchased less fuel than the
12 ticket or invoice shows, shall be guilty of a ~~misdemeanor~~ violation and upon
13 conviction shall be fined not less than one hundred dollars (\$100) nor more
14 than one thousand dollars (\$1,000).

15 (e) The director, in consultation with the Director of Highways and
16 Transportation, is hereby authorized and directed to promulgate rules and
17 regulations regarding an alternative to the required usage of sales tickets
18 for all sales of natural gas fuels made by alternative fuels suppliers by
19 separate meter as provided in § 26-62-203. It is the intent of this directive
20 that if a user, other than an interstate user or IFTA carrier user, receives
21 natural gas fuels through a separate meter, there shall be no sales ticket
22 requirement.

23
24 SECTION 181. Arkansas Code § 26-78-105 is amended to read as follows:
25 26-78-105. Payment of tax - Penalty.

26 (a) The vehicle tax shall be due and payable, without penalty, during
27 the month of January of the calendar year next following the year in which
28 the levy is made. Penalty for delinquent payment of the tax shall be one
29 dollar (\$1.00) per vehicle per month for each month's delinquency.

30 (b) Any owner of any vehicle delinquent in the payment of the vehicle
31 tax for more than five (5) months, who thereafter shall use and operate the
32 vehicle upon the public roads, streets, and other public ways within the
33 county or municipality levying the vehicle tax, or who shall knowingly permit
34 it to be so used and operated by another, shall be guilty of a ~~misdemeanor~~
35 violation and, upon conviction, shall be fined any sum not less than twenty-
36 five dollars (\$25.00) and not more than fifty dollars (\$50.00) for each

1 violation. The fine so assessed shall be in addition to the aforementioned
2 tax and penalty.

3 (c) The owner of any vehicle first acquired or first used in the
4 county after July 1 of the taxable year shall be required to pay only one-
5 half (1/2) of the annual rate of the vehicle tax for the remainder of the
6 calendar year, and the tax may be paid, without penalty, during the thirty-
7 day period next following the date of the first acquisition or first use.
8 However, no tax shall be required of the owner if the vehicle tax for the
9 particular year has been paid by a former owner, whether or not in the same
10 county or municipality.

11

12 SECTION 182. Arkansas Code § 28-65-315 is amended to read as follows:

13 28-65-315. Oil, gas, and mineral interests - Sale, lease, etc.

14 (a)(1) The guardian of the estate of an incompetent who owns land
15 situated in this state or an interest therein, or who owns an interest in
16 oil, gas, or other minerals in or under land situated in this state, or in an
17 oil, gas, or other mineral lease on such land, on such terms as the guardian
18 deems to be for the best interest of his or her ward and in the name and on
19 behalf of his or her ward, may:

20 (A) Execute, acknowledge, and deliver a lease on the land
21 or interest therein, or of the minerals thereunder, for the production of
22 oil, gas, or other minerals from those lands;

23 (B) Make an assignment of the interest in the lease owned
24 by the ward;

25 (C) Sell and convey the ward's interest in the oil, gas,
26 or other minerals or mineral rights in and under the land, or any part
27 thereof; or

28 (D) Enter into a contract with reference thereto.

29 (2) Any such lease or assignment, sale, conveyance, or contract
30 shall be binding upon the ward and his or her estate and all parties to the
31 transaction, unless set aside as hereinafter provided.

32 (b)(1) Within sixty (60) days after the execution, acknowledgment, and
33 delivery of the lease, assignment, conveyance, or contract, the guardian
34 shall report the transaction to the circuit court of the county in which the
35 land, or the greater part of the land in area, is situated, stating in detail
36 the essential facts with reference to the transaction, attaching to his or

1 her report a copy of the instrument executed by him or her, and praying for
2 an order ratifying the transaction evidenced by the instrument.

3 (2) After notice given to such persons, if any, as the court may
4 direct, the court shall hear the petition and shall require a showing of the
5 facts required for determination whether the lease, assignment, sale,
6 conveyance, or contract was for the best interest of the ward under the
7 circumstances existing at the time it was made.

8 (c)(1) If the court finds that the execution of the instrument in
9 question was for the best interest of the ward at the time it was executed
10 and delivered, the court shall make an order approving and confirming the
11 acts of the guardian in executing, acknowledging, and delivering the
12 instrument.

13 (2) Prior to making the order, the court shall ascertain whether
14 the guardian's bond is sufficient in amount and security to protect the
15 estate of the ward with respect to the proceeds of the transaction involved.
16 If the bond is not sufficient, the court shall require, as a prerequisite to
17 making the order, that the guardian's bond be increased or supplemented in
18 amount or security to adequately protect the ward's estate, including the
19 proceeds of the transaction reviewed. The supplemental bond may be filed with
20 and approved by the court making the order.

21 (d) If the court finds that the transaction reported by the guardian
22 was not for the best interest of the ward at the time it was entered into,
23 the court shall make an order setting aside the lease, assignment, sale,
24 conveyance, or contract and requiring the guardian to return the
25 consideration he may have received for the execution and delivery thereof.

26 (e) If the court making the order is not the court in which the
27 general guardianship proceedings are pending, the order shall direct that a
28 certified copy of the order and the original of the supplemental bond, if
29 any, with the court's approval endorsed thereon, be transmitted promptly by
30 registered mail by the clerk of that court to, and filed with, the clerk of
31 the court in which the general guardianship proceedings are pending.

32 (f) A guardian who fails to file a report and petition as required by
33 the provisions of this section within the prescribed time shall be guilty of
34 a ~~misdemeanor~~ violation and on conviction shall be fined in any sum not
35 exceeding one thousand dollars (\$1,000).

36 (g)(1) If the guardian fails to file the report and petition as

1 provided in subsection (b) of this section, the person with whom the guardian
2 has contracted or to whom he or she has executed and delivered an assignment,
3 lease, conveyance, or other instrument may, after the expiration of sixty
4 (60) days and within seventy-five (75) days after the date of the lease,
5 assignment, conveyance, contract, or other instrument, petition the court of
6 the county in which the land or the greater part in area is situated, to
7 require the guardian to file the report and petition.

8 (2) It shall be the duty of the court to order the guardian to
9 appear and show cause why his or her report and petition have not been filed.

10 (3) After citation of the guardian to appear and after notice
11 given to such other parties, if any, as the court may direct, the court shall
12 determine whether or not the lease, assignment, sale, conveyance, or contract
13 should be approved and confirmed and shall make an order approving and
14 confirming the transaction or setting the transaction aside as provided in
15 subsection (b) of this section, as in the judgment of the court may be
16 required by the facts developed at such hearing.

17 (h) A lease, assignment, sale, conveyance, or contract made by a
18 guardian under the authority contained in this section, which is not reported
19 to the court as provided by subsections (b) or (g) of this section, shall be
20 null and void after the expiration of the time
21 provided for the filing of the petition to require the guardian to file his
22 report and petition.

23
24 SECTION 183. Arkansas Code § 5-62-122 is amended to read as follows:
25 5-62-122. Permitting livestock to run at large.

26 (a) A person commits the offense of permitting livestock to run at
27 large if being the owner or person charged with the custody and care of
28 livestock he knowingly permits such livestock to run at large.

29 (b) For purposes of this section, livestock includes horses, mules,
30 cattle, goats, sheep, swine, chickens, ducks, and similar animals and fowl
31 commonly raised or used for farm purposes.

32 (c)(1) Except as provided in subdivision (c)(2) of this section,
33 permitting livestock to run at large is a violation and upon conviction may
34 be subject to a fine not to exceed one hundred dollars (\$100).

35 (2) Any person who allows any hog to run at large is guilty of a
36 ~~misdemeanor~~ violation and upon conviction shall be subject to a fine not to

1 exceed five hundred dollars (\$500).

2

3 SECTION 184. Arkansas Code § 5-68-201 is amended to read as follows:

4 5-68-201. Exhibition of obscene figures.

5 (a) Every person publicly exhibiting any obscene figures shall be
6 ~~deemed~~ guilty of a ~~misdemeanor~~ violation.

7 (b) Every person convicted under the provisions of this section shall
8 be fined in any sum not less than fifty dollars (\$50.00) or more than one
9 hundred dollars (\$100.00).

10

11 SECTION 185. Arkansas Code § 6-18-702 is amended to read as follows:

12 6-18-702. Immunization.

13 (a) Except as otherwise provided by law, no infant or child shall be
14 admitted to a public or private school or child care facility of this state
15 who has not been age appropriately immunized from poliomyelitis, diphtheria,
16 tetanus, pertussis, red (rubeola) measles, rubella, and other diseases as
17 designated by the State Board of Health, as evidenced by a certificate of a
18 licensed physician or a public health department acknowledging the
19 immunization.

20 (b)(1) The responsibility for the enforcement of this section rests
21 equally with each school district of this state and the parent or guardian of
22 the child or pupil, and each of them shall be separately and individually
23 liable for permitting any violation of this section.

24 (2)(A) The Child Care Facility Licensing Division of the
25 Department of Human Services shall be responsible for enforcing this section
26 with respect to child care facilities.

27 (B) The Division of Child Care and Early Childhood
28 Education may promulgate appropriate rules and regulations, to be approved by
29 the Arkansas Early Childhood Commission, for the enforcement of this section.

30 (C) The owners or managers of those facilities and any
31 parent or guardian violating such regulations shall be subject to the
32 penalties provided in § 20-78-201 et seq.

33 (c)(1)(A)(i) The Division of Child Care and Early Childhood Education
34 shall be responsible for enforcing this section with respect to child care
35 facilities.

36 (ii) The division may promulgate appropriate rules

1 and regulations for the enforcement of this section.

2 (B) The owners or managers of those facilities and any
3 parent or guardian violating the regulations shall be subject to the
4 penalties provided in § 20-78-201 et seq.

5 (2)(A) Regarding kindergarten through grade 12 (K-12), the State
6 Board of Education, after having consulted with the State Board of Health,
7 shall promulgate appropriate rules and regulations for the enforcement of
8 this section by school boards, superintendents, and principals.

9 (B) Any school official, parent, or guardian violating the
10 regulations shall be subject to the penalties imposed herein.

11 (d)(1)(A) The State Board of Health shall promulgate rules and
12 regulations to ensure that all exemptions provided by this section shall have
13 a minimal effect on the health and safety of all children attending day care
14 or kindergarten through grade twelve (K-12).

15 (B) The rules shall provide for, but are not limited to,
16 the tracking of those children with exemptions so that appropriate steps may
17 be taken in the event of an outbreak or epidemic.

18 (2) The Department of Health, and no other department or entity,
19 shall grant exemptions provided for by this section.

20 (3) If, in the discretion of the health authority having
21 jurisdiction or of any physician licensed to practice by the Arkansas State
22 Medical Board, any person to whom this section applies shall be deemed to
23 have a physical disability that may contraindicate vaccination, a certificate
24 to that effect issued by the health officer may be accepted in lieu of a
25 certificate of vaccination, provided that the exemption shall not apply when
26 the disability shall have been removed.

27 (4)(A) The provisions of this section shall not apply if the
28 parents or legal guardian of that child object thereto on the grounds that
29 immunization conflicts with the religious or philosophical beliefs of the
30 parent or guardian.

31 (B) The parents or legal guardian of the child shall
32 complete an annual application process developed in the rules and regulations
33 of the Department of Health for medical, religious, and philosophical
34 exemptions.

35 (C) The rules and regulations developed by the Department
36 of Health for medical, religious, and philosophical exemptions shall include,

1 but not be limited to:

2 (i) A notarized statement requesting a religious,
3 philosophical, or medical exemption from the Department of Health by the
4 parents or legal guardian of the child regarding the objection;

5 (ii) Completion of an educational component
6 developed by the Department of Health that includes information on the risks
7 and benefits of vaccination;

8 (iii) An informed consent from the parents or
9 guardian that shall include a signed statement of refusal to vaccinate based
10 on the Department of Health's refusal-to-vaccinate form; and

11 (iv) A signed statement of understanding that:

12 (a) At the discretion of the Department of
13 Health, the unimmunized child or individual may be removed from day care or
14 school during an outbreak if the child or individual is not fully vaccinated;
15 and

16 (b) The child or individual shall not return
17 to school until the outbreak has been resolved and the Department of Health
18 approves the return to school.

19 (D) No exemptions may be granted under this subdivision
20 (d)(4) until the application process has been implemented by the Department
21 of Health and completed by the applicant.

22 (5) Furthermore, the provisions of this section requiring
23 pertussis vaccination shall not apply to any child with a sibling, either
24 whole blood or half blood, who has had a serious adverse reaction to the
25 pertussis antigen, which reaction resulted in a total permanent disability.

26 (e) Any person found guilty of violating the provisions of this
27 section or the regulations promulgated by the State Board of Education or the
28 division for the enforcement hereof shall be guilty of a ~~misdemeanor~~
29 violation and upon conviction shall be fined not less than twenty-five
30 dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

31

32 SECTION 186. Arkansas Code § 6-18-804 is amended to read as follows:
33 6-18-804. Age and consent requirements.

34 (a) No pupil shall be designated a safety patrol member under this
35 subchapter unless he or she is eleven (11) years of age or over and has the
36 written permission of a parent or guardian.

1 (b) Any teacher or board member using any pupil for safety patrol
2 purposes without the written permission of a parent or guardian shall be
3 deemed guilty of a ~~misdemeanor~~ violation and upon conviction shall be fined
4 not less than twenty-five dollars (\$25.00) nor more than one hundred dollars
5 (\$100) for each offense.
6

7 SECTION 187. Arkansas Code § 6-64-215 is amended to read as follows:

8 6-64-215. Records and reports regarding students and teachers.

9 (a) The Board of Trustees of the University of Arkansas shall keep or
10 have kept a record showing:

11 (1) The number of students enrolled;

12 (2) The daily average attendance at classwork for each month and
13 for the term;

14 (3) The number of teachers employed and their salary;

15 (4) The teachers' daily attendance on and absence from
16 classwork; and

17 (5) The number of hours the teacher is required to teach each
18 day in each department.

19 (b) This record shall be open to any citizen at all reasonable hours.

20 (c) The board shall report to each session of the General Assembly the
21 number of students enrolled, the daily average attendance on classwork for
22 the month and for the term, the number of teachers employed and their
23 salaries and the hours each is to teach each day, and their absence from and
24 attendance on classwork.

25 (d) A failure to keep or have kept this record and to report to the
26 General Assembly as provided in this section shall be a ~~misdemeanor~~ violation
27 and upon conviction a person shall be fined not less than twenty-five dollars
28 (\$25.00) nor more than one hundred dollars (\$100) for each offense upon the
29 part of each member of the board.
30

31 SECTION 188. Arkansas Code § 6-65-110 is amended to read as follows:

32 6-65-110. Sale of farm products - Disposition of proceeds - Reports.

33 (a) The proceeds from the sale of all farm products shall be deposited
34 in the State Treasury to the credit of each of the schools and kept in a
35 separate fund.

36 (b) The moneys may be drawn by warrant by the boards of trustees and

1 expended for the upbuilding and development of the school farms and used for
2 no other purpose, if an itemized account of all sales and receipts for all
3 disbursements of moneys is kept by the boards of trustees, is audited
4 annually, and a report of the account is filed with the Governor within
5 thirty (30) days after the audit is made.

6 (c) Any one of the boards of trustees or any member of either of the
7 boards, or any member of the faculty of either of the schools, who violates
8 any part of this section shall be deemed guilty of a ~~misdemeanor~~ violation
9 and upon conviction shall be fined in any sum not less than fifty dollars
10 (\$50.00) nor more than one hundred dollars (\$100) for each and every offense
11 or violation of this section.

12
13 SECTION 189. Arkansas Code § 20-15-702 is amended to read as follows:
14 20-15-702. Penalty.

15 Any person who violates any of the provisions of this subchapter shall
16 be deemed guilty of a ~~misdemeanor~~ violation and upon conviction shall pay a
17 fine ~~not exceeding one hundred dollars (\$100) and of~~ not less than twenty-
18 five dollars (\$25.00) and not exceeding one hundred dollars (\$100).

19
20 SECTION 190. Arkansas Code § 20-26-403 is amended to read as follows:
21 20-26-403. Toilets.

22 (a) It shall be the duty of every ~~keeper, manager,~~ manager or person
23 in charge of the conduct of any hotel or inn in this state to keep ~~the~~
24 ~~closets, toilet room, or privies,~~ toilet rooms used in connection with the
25 inn or hotel and provided for the use of guests ~~at, or patrons of, the inn or~~
26 ~~hotel, in a clean,~~ or patrons of the inn or hotel in a clean and sanitary
27 condition.

28 (b) Any ~~keeper, manager, agent,~~ manager or person in charge of the
29 operation and conduct of any inn or hotel shall be guilty of a ~~misdemeanor~~
30 violation and on conviction shall be fined not less than five dollars (\$5.00)
31 nor more than one hundred dollars (\$100) if that person shall:

32 (1) Permit the ~~closets, toilet stools, or privies~~ toilet stools
33 provided for the use of guests or patrons to become foul or filthy or the
34 vault thereof to become full or clogged with fecal matter; or

35 (2) Fail to keep the stools, seats, and floors of the ~~closets~~
36 ~~and privies~~ toilet rooms clean and washed regularly when necessary, and in no

1 case less than ~~once~~ one (1) time per week.

2
3 SECTION 191. Arkansas Code § 2-33-110 is amended to read as follows:

4 2-33-110. Violations in interstate movement.

5 In the interstate movement of any livestock, poultry, or other domestic
6 fowl, or in the interstate movement of any product derived from livestock,
7 poultry, or other domestic fowl, it shall be a Class A misdemeanor for any
8 person, firm, or corporation to violate any regulation of the Arkansas
9 Livestock and Poultry Commission.

10
11 SECTION 192. Arkansas Code § 2-34-202 is amended to read as follows:

12 2-34-202. Penalty.

13 (a) Any person who knowingly places any brand upon any livestock which
14 brand has not been registered with the division or which duplicates a brand
15 that is registered with the division shall be guilty of a Class A
16 misdemeanor.

17 (b) Duplication shall constitute the use of a similar brand, used in
18 any position on the animal designated for use of a registered brand, such as
19 the head, neck, shoulder, rib, hip, or breeching.

20
21 SECTION 193. Arkansas Code § 3-5-1207 is amended to read as follows:

22 3-5-1207. Operation without license prohibited.

23 It shall be unlawful and constitute a Class A misdemeanor for any
24 person not holding a valid microbrewery-restaurant license to operate as a
25 microbrewery-restaurant as herein provided.

26
27 SECTION 194. Arkansas Code § 3-9-209 is amended to read as follows:

28 3-9-209. Sales without permit prohibited.

29 It shall be unlawful and constitute a Class A misdemeanor for any
30 person not holding a valid permit issued hereunder to sell alcoholic
31 beverages for on-premises consumption.

32
33 SECTION 195. Arkansas Code § 3-9-236 is amended to read as follows:

34 3-9-236. Permittees - Miscellaneous unlawful practices.

35 It shall be unlawful and constitute a Class A misdemeanor for any
36 person holding a permit hereunder or his agents, servants, or employees

1 knowingly to do any of the following acts:

2 (1) Serve any alcoholic beverage to a person who is under the
3 age of twenty-one (21) years;

4 (2) Serve any alcoholic beverage to an intoxicated person, to
5 any person who is known to be insane or mentally defective, to any person who
6 is known to habitually drink alcoholic beverages to excess, or to any person
7 who is known to be an habitual user of narcotics or other habit-forming
8 drugs;

9 (3) Sell alcoholic beverages at any prohibited time;

10 (4) Place any sign of any description on the exterior of the
11 permitted premises indicating that alcoholic beverages are sold for
12 consumption therein;

13 (5) Misrepresent the brand of any alcoholic beverage sold or
14 offered for sale;

15 (6) Keep any alcoholic beverage otherwise than in the bottle or
16 container in which it was purchased;

17 (7) Refill or partly refill any bottle or container of alcoholic
18 beverage;

19 (8) Dilute or otherwise tamper with the contents of any bottle
20 or container of alcoholic beverage;

21 (9) Fail to break and destroy by the close of each business day
22 all empty bottles or containers;

23 (10) Remove or obliterate any label, mark, or stamp affixed to
24 any bottle or container of alcoholic beverage offered for sale;

25 (11) Deliver or sell the contents of any bottles or containers,
26 the label, mark, or stamp upon which has been removed or obliterated;

27 (12)(A) Employ any person less than twenty-one (21) years of age
28 in the mixing or serving of alcoholic beverages.

29 (B) Provided, that any permittee that has obtained a
30 permit under the provisions of §§ 3-9-202(8) or (9) may employ persons
31 nineteen (19) years of age or older in the serving of alcoholic beverages.

32 (C) Nothing herein shall prohibit a minor eighteen (18)
33 years of age or older to be employed as a musician, or to be employed in the
34 preparation or serving of food or in the housekeeping department of any
35 establishment authorized to dispense mixed drinks under this subchapter;

36 (13) Allow any immoral, lewd, obscene, indecent, or profane

1 conduct, language, literature, pictures, or materials on the permitted
2 premises;

3 (14) Consume or allow the consumption by any employee of
4 intoxicating beverages while on duty;

5 (15) Keep on the permitted premises a slot machine or any
6 gambling or gaming device, machine, or apparatus;

7 (16) Sell any alcoholic beverage unless the beverage is owned
8 outright by the permittee;

9 (17) Employ any person in the serving of alcoholic beverages who
10 has been convicted of any violation of the laws against possession, sale,
11 manufacture, or transportation of intoxicating liquor or any crime involving
12 moral turpitude;

13 (18) Violate any rule, regulation, or order of the board;

14 (19) Fail to report all taxes applicable to the sale of
15 alcoholic beverages for on-premises consumption; or

16 (20) Possess on the permitted premises or sell or dispense any
17 alcoholic beverages upon which the federal or state taxes have not been paid.

18

19 SECTION 196. Arkansas Code § 6-19-108 is amended to read as follows:
20 6-19-108. Bus drivers - Certification.

21 (a) An applicant seeking employment as a driver or operator of a
22 school bus, either privately or publicly owned, is required to take and pass
23 a series of tests as prescribed by the Department of Arkansas State Police
24 and the Department of Education to determine the physical fitness and driving
25 ability to serve as a school bus driver. The tests shall include a physical
26 examination given by a licensed physician or registered nurse for school bus
27 drivers, an eye test, a written or oral test on rules and regulations of
28 driving, a road test given under the supervision of the Department of
29 Arkansas State Police, and such other requirements as may be prescribed by
30 rules and regulations issued jointly by the Department of Arkansas State
31 Police and the Department of Education for qualifications and fitness of
32 school bus drivers. In addition, the applicant shall participate in and pass
33 a standard bus driver training and preservice behind-the-wheel training
34 program as prescribed by the Department of Education.

35 (b) Upon successful completion of these tests, a certificate shall be
36 issued by the Department of Arkansas State Police. Such certificate shall be

1 for a two-year period. Upon the expiration of a certificate, the holder
2 thereof shall take a new examination as required by this section before a new
3 certificate may be issued.

4 (c) No school bus driver shall be employed to act as chauffeur or
5 operator of any school bus to transport children to and from school or
6 school-sponsored activities unless he has satisfactorily passed the tests
7 required herein and possesses a current valid certificate therefor. Such
8 certificate shall be required in addition to a chauffeur's license or
9 operator's license and such additional qualifications as may be required by
10 the school district board of directors.

11 (d) Each school bus driver who seeks a renewal of his or her bus
12 driver certificate shall provide proof that he or she has satisfactorily
13 passed a physical examination given by a licensed physician and that he or
14 she has satisfactorily completed an in-service workshop for school bus
15 drivers as prescribed by the Department of Education.

16 (e) In the event that a qualified school bus operator as prescribed in
17 this subchapter shall die, resign, or be ill, disabled, or otherwise not
18 available to operate a school bus and the school district board of directors
19 is not able to obtain a qualified bus operator with the certificate required
20 in this section, the school district board of directors may provide a
21 substitute driver to operate such school bus on a temporary basis without a
22 certificate until the next regularly scheduled school bus operator's
23 examination is held in the locality.

24 (f) Extracurricular trips shall be made by certified operators only.

25 (g) Any person or persons violating the provisions of this section
26 shall be guilty of a Class A misdemeanor.

27
28 SECTION 197. Arkansas Code § 6-20-1206 is amended to read as follows:

29 6-20-1206. Manner and terms of sale - Maximum rate of interest.

30 (a)(1) All school bonds shall be sold to the highest bidder at public
31 sale.

32 (2) Advertisement thereof shall be published in at least one (1)
33 newspaper published in the county with such publication to be once a week for
34 two (2) weeks, the first publication to be at least thirteen (13) days before
35 the date of the sale, and by such other advertisement as the board of
36 directors and the Director of the Department of Education shall deem

1 advisable.

2 (3) At any time after receiving bids on bonds, all bids may be
3 rejected and the bonds readvertised for the time and in the manner herein
4 provided.

5 (4) The bonds shall bear interest at a rate or rates not
6 exceeding the maximum lawful rate as defined in subsection (b) of this
7 section.

8 (5) Bonds may be sold at a discount, but in no event shall the
9 district be required to pay more than the maximum lawful rate of interest on
10 the amount received.

11 (6) Bonds may be sold with the privilege of conversion into
12 bonds bearing a lower rate or rates of interest, but the district shall
13 receive no less and pay no more in principal and interest combined than it
14 would receive and pay if the bonds were not converted.

15 (7) The district shall pay the expenses of issuing the bonds and
16 may supply the opinion of attorneys approving the validity of the bonds.

17 (8) No brokerage, agent's fees, or commissions of any kind for
18 securing bids for the sale of school district bonds shall be allowed or paid
19 on any bond sale, unless it is approved by the director, and any person
20 giving or receiving it without approval shall be guilty of a Class A
21 misdemeanor.

22 (b) As used in this section, "maximum lawful rate" means a rate of
23 interest equal to five percent (5%) per annum above the rate for primary
24 credit or its functional equivalent in effect at the Federal Reserve bank in
25 the Federal Reserve district in which Arkansas is located at the time a bid
26 for bonds is accepted.

27 (c) The State Board of Education is authorized to set a maximum rate
28 of interest at which school bonds may be sold under the conditions stated in
29 subsection (a) of this section at any level below the maximum lawful rate.

30

31 SECTION 198. Arkansas Code § 12-11-104 is amended to read as follows:
32 12-11-104. Resistance to authority.

33 (a) When a sheriff or other public officer authorized to execute
34 process finds or has reason to believe that resistance will be made to the
35 execution of the process, he or she may command as many ~~male~~ inhabitants of
36 his or her county as he or she may think proper, and any military companies

1 in his or her county, armed and equipped, to assist him or her in overcoming
2 the resistance and in arresting and confining the resisters and their aiders
3 and abettors, to be punished according to law.

4 (b) The officer must report to the court from which the process issued
5 the names of the resisters and their aiders and abettors so that they may be
6 punished for contempt.

7 (c) Every person commanded by a public officer to assist him or her in
8 the execution of process, who without lawful cause refuses or neglects to
9 obey the command, is guilty of a Class A misdemeanor and contempt of the
10 court from which the process issued.

11
12 SECTION 199. Arkansas Code § 12-13-110 is amended to read as follows:
13 12-13-110. Inspection of buildings.

14 (a)(1) The Director of the Department of Arkansas State Police, his or
15 her officers, or deputies, upon complaint of any person or on their own
16 motion, may inspect all buildings and premises within their jurisdiction and
17 issue orders for the compliance with such regulations.

18 (2) Failure or refusal to comply with the instructions of the
19 Director of the Department of Arkansas State Police in the enforcement of
20 such regulations shall be a ~~misdemeanor and punishable as such~~ Class A
21 misdemeanor.

22 (b)(1) The Director of the Department of Arkansas State Police and his
23 or her officers and deputies shall inspect all places of public assembly,
24 including factories or industrial plants normally employing ten (10) or more
25 persons, where hazards to the lives and safety of citizens might be present.

26 (2) If upon completion of the inspection an unsafe or hazardous
27 condition is found to exist, then the director shall promptly notify the
28 owner or operator thereof in writing.

29 (3) Upon the receipt of the written notice, the owner or
30 operator shall remove the hazardous or unsafe condition.

31 (4) On failure to remedy the condition, the director may file
32 injunction proceedings in the circuit court of the jurisdiction to abate the
33 condition as being a nuisance. The suit shall be filed in the name of the
34 director for the use and benefit of the State of Arkansas, without bond for
35 costs.

36

1 SECTION 200. Arkansas Code § 17-31-105 is amended to read as follows:

2 17-31-105. Violations – Penalties.

3 (a) Any person required to be registered under this chapter shall be
4 guilty of a Class A misdemeanor ~~and upon conviction shall be sentenced to pay~~
5 ~~a fine of not less than five hundred dollars (\$500) nor more than one~~
6 ~~thousand dollars (\$1,000) for each offense or suffer imprisonment for a~~
7 ~~period not to exceed one (1) year, or both, if that person shall:~~

8 (1) Practice or offer to practice forestry without a valid
9 certificate of registration issued pursuant to this chapter;

10 (2) Claim to be a forester certified under this chapter without
11 being so certified;

12 (3) In any way tend to convey the impression that he or she is a
13 forester certified under the provisions of this chapter without being so
14 registered;

15 (4) Use as his or her own the certificate of registration of
16 another;

17 (5) Give false or forged evidence to the Arkansas State Board of
18 Registration for Foresters;

19 (6) Use an expired or revoked certificate; or

20 (7) Violate any provision of this chapter.

21 (b) A Class A misdemeanor shall also be charged against a registered
22 forester, subject to penalties as prescribed in subsection (a) of this
23 section, who endorses any plan, specification, estimate, report, or map
24 unless he or she actually prepared the plan, specification, estimate, report,
25 or map or has been in actual charge or supervision of the preparation of it.

26
27 SECTION 201. Arkansas Code § 17-82-105 is amended to read as follows:

28 17-82-105. Sales of dental services or appliances.

29 (a) Any person other than a licensed dentist who sells or delivers or
30 offers to sell or deliver to the general public the services of construction,
31 repair, reproduction, duplication, alteration, adjustment, cleaning,
32 polishing, refinishing, or processing in any other manner, of any artificial
33 or prosthetic tooth or teeth, bridge, crown, denture, restoration, appliance,
34 device, structure, or material or orthodontic appliance or material to be
35 worn or used in the mouth, is subject to the penalties and liabilities
36 prescribed in § 17-82-301(b) and (c). This section does not prohibit selling

1 or delivering or offering to sell or deliver any of such articles to a
2 licensed dentist.

3 (b) Any licensed dentist who employs or engages the services of a
4 dental laboratory or dental laboratory technician or any other person, firm,
5 or corporation to perform any of the operations or to fabricate any of the
6 appliances or devices referred to in subsection (a) of this section shall
7 furnish that person, firm, or corporation with a written work authorization
8 which shall contain:

9 (1) The name and address of the person, firm, or corporation to
10 which the work authorization is directed;

11 (2) The patient's name or an identification number. If a number
12 is used, the patient's name shall be written upon the duplicate copy of the
13 work authorization retained by the dentist;

14 (3) The date on which the work authorization was written;

15 (4) A description of the work to be done, including diagrams, if
16 necessary;

17 (5) A specification of the type and quality of materials to be
18 used; and

19 (6) The signature of the dentist and the number of his or her
20 license to practice dentistry.

21 (c) The person, firm, or corporation receiving a work authorization
22 from a licensed dentist shall retain the original work authorization and the
23 dentist shall retain a duplicate copy for a period of two (2) years.

24 (d) Any licensed dentist shall be guilty of a Class A misdemeanor and
25 the Arkansas State Board of Dental Examiners may revoke or suspend the
26 license of that dentist ~~for a violation~~ if that dentist:

27 (1) Employs or engages the services of any person, firm, or
28 corporation to construct or repair, extraorally, prosthetic dentures,
29 bridges, or other dental appliances without first providing the person, firm,
30 or corporation with a written work authorization;

31 (2) Fails to retain a duplicate copy of the work authorization
32 for two (2) years; or

33 (3) Commits any violation of this section.

34 (e) Any person, firm, or corporation shall be guilty of a Class A
35 misdemeanor if that person, firm, or corporation:

36 (1) Furnishes such services to any licensed dentist without

1 first obtaining a written work authorization from the dentist;

2 (2) Fails to retain the original work authorization for two (2)
3 years; or

4 (3) Commits any violation of this section.

5
6 SECTION 202. Arkansas Code § 17-96-103 is amended to read as follows:

7 17-96-103. Unlawful acts - Penalties.

8 (a) Any person who shall unlawfully obtain registration under this
9 chapter, whether by false or untrue statements contained in the application
10 to the Arkansas Board of Podiatric Medicine or by presenting to the board a
11 fraudulent diploma, certificate for license, or one fraudulently obtained, or
12 by practicing without any registration or certificate, shall be deemed guilty
13 of a Class A misdemeanor.

14 (b) Any Except as otherwise provided in this section, any person who
15 shall swear falsely to any affidavit or oral testimony made or given by
16 virtue of the provisions of this chapter or the regulations of the board
17 shall be deemed guilty of perjury and upon conviction shall be subject to all
18 the pains and penalties of perjury.

19 (c) Any person who shall knowingly violate any of the provisions of
20 this chapter, upon conviction, shall be fined a sum not exceeding one
21 thousand dollars (\$1,000) or be imprisoned in the county jail not to exceed
22 thirty (30) ~~days~~ days, or be both fined and imprisoned.

23
24 SECTION 203. Arkansas Code § 23-2-405 is amended to read as follows:

25 23-2-405. Service of process, notices, complaints, etc.

26 (a) All process issued by the commission shall extend to all parts of
27 the state and any such process, together with the service of all notices
28 issued by the commission, as well as copies of complaints, rules, orders, and
29 regulations of the commission, may be served by any person authorized to
30 serve process issued out of courts of law, or by mail, as the commission may
31 direct.

32 (b) In instances where service is had by mail, a duplicate of the
33 instrument served shall be enclosed, upon which duplicate the person served
34 shall endorse the date of his or her receipt of the original and promptly
35 return the duplicate to the commission.

36 (c) Any person who fails, neglects, or refuses to promptly return the

1 receipt and duplicate shall be deemed to be guilty of a Class A misdemeanor.

2
3 SECTION 204. Arkansas Code §§ 23-17-106 and 23-17-107 are amended to
4 read as follows:

5 23-17-106. Priority of dispatch of messages - Confidentiality.

6 (a)(1) In consideration of the right-of-way over the public property
7 conceded in §§ 23-17-101 - 23-17-108 and 23-17-113, every ~~telegraph or~~
8 telephone corporation in the case of war, insurrection, or civil commotion of
9 any kind and for the arrest of criminals shall give immediate dispatch at the
10 usual rates of charge to any message connected therewith of any officer of
11 the state or of the United States.

12 (2) Any officer or agent of a ~~telegraph or~~ telephone company who
13 fails or refuses to carry out the provisions of the preceding subsection is
14 guilty of a misdemeanor.

15 (b)(1) All other messages, including those received from other
16 ~~telegraph or~~ telephone companies, shall be transmitted in order of their
17 delivery, correctly and without unreasonable delay, and shall be strictly
18 confidential. However, arrangements may be made with the publishers of
19 newspapers for the transmission of intelligence of general and public
20 interest.

21 (2) Any officer or agent of a ~~telegraph or~~ telephone company who
22 willfully violates the provisions of this subsection is guilty of a Class A
23 misdemeanor.

24 (3) The ~~telegraph or~~ telephone company so violating this section
25 is liable in damages to the party aggrieved.

26
27 23-17-107. Interception of message - Injuring equipment -
28 Penalty.

29 If any person without authority intercepts a dispatch or message
30 transmitted by ~~telegraph or~~ telephone or willfully destroys or injures any
31 ~~telegraph~~ telephone pole, wire, cable, or fixture, he or she is guilty of a
32 Class A misdemeanor.

33
34 SECTION 205. Arkansas Code § 23-66-307 is amended to read as follows:

35 23-66-307. Inducement to forfeit, surrender, etc., other policies.

36 (a)(1) It is the public policy of this state that life and accident

1 and health insurance agents shall provide reasonable and professional service
2 to each insured or prospective insured.

3 (2) Each agent is ~~therefore~~ therefor charged with the
4 responsibility of exercising discretion and good faith in the sales
5 presentation or transaction.

6 (3) Further, it is within the general welfare of the people that
7 each life and accident and health agent, when it is professionally advisable,
8 shall improve upon or change the type of insurance that any insured or
9 prospective insured presently has by providing either better coverage or an
10 overall program of insurance more suitable for the needs of the insured, his
11 or her family, or a business.

12 (4) However, certain abuses occur when agents engage in the
13 above type of solicitation without good faith and professional discretion.

14 (b) It shall be unlawful for any agent to encourage, induce, or
15 solicit any insured to permit a policy of permanent insurance to lapse, or
16 otherwise forfeit or surrender those contracts or policies except in
17 compliance with the provisions of subsection (c) of this section.

18 (c) Whenever any agent in a sales presentation seeks to induce the
19 holder of any permanent life insurance policy to permit it to lapse or to
20 surrender, forfeit, or change the existing permanent life insurance coverage,
21 the agent shall:

22 (1) Furnish the policyholder a written memorandum, dated,
23 comparing the existing and the proposed life insurance coverage. The
24 instrument shall be signed by the agent and by the insured to acknowledge
25 receipt of the written memorandum; and

26 (2) File a duplicate of the memorandum with the company
27 represented by the agent. The company shall retain the duplicate memorandum
28 for a period of three (3) years.

29 (d) Any agent who shall violate the provisions of this section shall
30 be guilty of a Class A misdemeanor and shall be subject to such reasonable
31 disciplinary action as may be provided by the Arkansas Insurance Code.

32

33 SECTION 206. Arkansas Code § 23-69-131 is amended to read as follows:
34 23-69-131. Unauthorized dividends prohibited.

35 (a) Any director of a domestic stock or mutual insurer who votes for
36 or concurs in the declaration or payment of a dividend, other than as

1 authorized under § 23-69-129 or § 23-69-130, to stockholders or members shall
2 upon conviction be guilty of a Class A misdemeanor and shall be jointly and
3 severally liable, together with other directors likewise voting for or
4 concurring, for any loss sustained by the insurer.

5 (b) Any stockholder receiving such a dividend shall be liable in the
6 amount thereof to the insurer.

7 (c) The Insurance Commissioner may revoke or suspend the certificate
8 of authority of an insurer which has declared or paid a dividend other than
9 as so authorized.

10

11 SECTION 207. Arkansas Code § 24-7-203 is amended to read as follows:
12 24-7-203. Penalty.

13 Any person who knowingly makes any false statement or who falsifies or
14 permits to be falsified any record or records in an attempt to defraud the
15 Arkansas Teacher Retirement System shall be guilty of a Class A misdemeanor
16 and, upon conviction thereof, shall be punished as provided by law.

17

18 SECTION 208. Arkansas Code § 26-52-403 is amended to read as follows:
19 26-52-403. Farm equipment and machinery.

20 (a) The sale of new and used farm equipment and machinery shall not be
21 subject to the Arkansas gross receipts tax levied by § 26-52-301(1), (2),
22 (3)(A), (3)(B), (3)(C)(i)-(3)(C)(iii), (4), and (5), but shall be exempt
23 therefrom.

24 (b)(1)(A) As used in this section, "farm equipment and machinery"
25 means implements used exclusively and directly in farming which for purposes
26 of this section is defined as the agricultural production of food or fiber as
27 a business or the agricultural production of grass sod or nursery products as
28 a business.

29 (B) Implements used to harvest crops produced in farming
30 by others shall be considered as used in farming.

31 (2) Irrigation pipe used to carry water from the irrigation well
32 to the crops produced in farming shall be considered "farm machinery or
33 equipment" regardless of whether the pipe is used above ground or is buried
34 underground.

35 (3) However, the term "farm equipment and machinery" shall not
36 include implements used in the production and severance of timber, motor

1 vehicles of a type subject to registration, airplanes, or hand tools.

2 (c)(1) Each purchaser of farm machinery must certify, in writing, on
3 the copy of the invoice or sales ticket to be retained by the seller that he
4 is engaged in farming and that the farm machinery will be used only in
5 farming.

6 (2) The seller shall certify to the Department of Finance and
7 Administration that the contract price of the items has been reduced to grant
8 the full benefit of the exemption.

9 (3) Violation of this subsection by the purchaser or seller
10 shall be a Class A misdemeanor and, upon violation or conviction for a second
11 offense, the Director of the Department of Finance and Administration shall
12 revoke the seller's sales tax permit.

13
14 SECTION 209. Arkansas Code § 26-57-403 is amended to read as follows:

15 26-57-403. Automatic money payoff mechanisms not legalized.

16 (a) Nothing contained in this section and §§ ~~26-57-306 [repealed]~~, 26-
17 57-401, 26-57-402, and 26-57-404 - 26-57-407 shall be deemed to legalize,
18 authorize, license, or permit any machines commonly known as slot machines,
19 roscoes, jackpots, or any machine equipped with any automatic money payoff
20 mechanism.

21 (b) Any person owning or possessing an amusement game or device
22 described in § 26-57-402(1) or (2), or any person employed by or acting on
23 behalf of any such person, who gives to any other person money for a noncash
24 prize, toy, or novelty received as a reward in playing any such amusement
25 game or device, or for free games won on any such machine, shall be guilty of
26 a Class A misdemeanor.

27
28 SECTION 210. Arkansas Code § 3-3-208 is amended to read as follows:

29 3-3-208. Possession or procuring orders.

30 Any person who, by himself or herself or his or her employee, or
31 servant, or agent for himself or herself, or any other person, shall keep or
32 carry around on his or her person, or in any vehicle or leave in a place for
33 another to secure, any intoxicating alcoholic liquor with the intent to sell
34 the liquor in violation of this act or who shall, within this state, in any
35 manner, directly or indirectly, solicit, take, or accept any order for the
36 purchase, sale, shipment, or delivery of intoxicating liquor for beverage

1 purposes in violation of the requirements of this act shall be guilty of a
2 ~~misdemeanor~~ violation. He or she shall be fined not less than two hundred
3 fifty dollars (\$250) nor more than five hundred dollars (\$500) for the first
4 offense. For the second and subsequent offenses he or she shall be guilty of
5 a Class A misdemeanor ~~and shall be subject to a fine of not less than two~~
6 ~~hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or~~
7 ~~to imprisonment in the county jail for not less than thirty (30) days nor~~
8 ~~more than one (1) year, or subject to both fine and imprisonment in the~~
9 ~~discretion of the court or jury.~~ The penalties prescribed herein shall be in
10 addition to any other penalty prescribed by law.

11

12 SECTION 211. Arkansas Code § 3-3-302 is amended to read as follows:

13 3-3-302. Penalties.

14 (a) Unless a different penalty is specifically provided, any person
15 who shall violate any of the provisions of this subchapter shall be deemed
16 guilty of a Class A misdemeanor ~~and upon conviction shall be fined in a sum~~
17 ~~not less than fifty dollars (\$50.00) nor more than one thousand dollars~~
18 ~~(\$1,000) or be confined in the county jail for a period of not less than six~~
19 ~~(6) months nor more than one (1) year, or be both fined and imprisoned.~~

20 (b) In addition to all other fines and penalties herein provided for,
21 the Director of the Alcoholic Beverage Control Division shall revoke all
22 alcoholic beverage permits held by any person convicted for a violation of
23 this subchapter.

24

25 SECTION 212. Arkansas Code § 4-18-203 is amended to read as follows:

26 4-18-203. Penalties.

27 (a) Any person who, by himself or herself or by his or her servant or
28 agent or as the servant or agent of another person, performs any one (1) of
29 the acts enumerated in subdivisions (b)(1)-(9) of this section shall be
30 guilty of a ~~misdemeanor~~ and, upon a first conviction, shall be punished by a
31 fine of not less than fifty dollars (\$50.00) nor more than five hundred
32 dollars (\$500) or by imprisonment for not more than three (3) months, or by
33 both fine and imprisonment, and, upon a second or subsequent conviction, he
34 or she shall be punished by a fine of not less than one hundred dollars
35 (\$100) nor more than one thousand dollars (\$1,000) or by imprisonment for not
36 more than one (1) year, or by both fine and imprisonment Class B misdemeanor

1 upon a first conviction, and, upon a second or subsequent conviction, shall
2 be guilty of a Class A misdemeanor.

3 (b) Any person shall be subject to the penalties prescribed in
4 subsection (a) of this section who:

5 (1) Uses or has in his or her possession for the purpose of
6 using for any commercial purpose specified in § 4-18-219, sells, offers, or
7 exposes for sale or hire, or has in his or her possession for the purpose of
8 selling or hiring, an incorrect weight or measure or any device or instrument
9 used to or calculated to falsify any weight or measure;

10 (2) Uses or has in his or her possession for the purpose of
11 current use for any commercial purpose specified in § 4-18-219 a weight or
12 measure that does not bear a seal or mark such as is specified in § 4-18-217,
13 unless the weight or measure has been exempted from testing by the provisions
14 of § 4-18-219 or by a regulation of the Director of the Arkansas Bureau of
15 Standards issued under the authority of § 4-18-216;

16 (3) Disposes of any rejected or condemned weight or measure in a
17 manner contrary to law or regulation;

18 (4) Removes from any weight or measure, contrary to law or
19 regulation, any tag, seal, or mark placed thereon by the appropriate
20 authority;

21 (5) Sells or offers or exposes for sale less than the quantity
22 he or she represents of any commodity, thing, or service;

23 (6) Takes more than the quantity he or she represents of any
24 commodity, thing, or service when as a buyer he or she furnishes the weight
25 or measure by means of which the amount of the commodity, thing, or service
26 is determined;

27 (7) Keeps for the purpose of sale, advertises, or offers or
28 exposes for sale, or sells, any commodity, thing, or service in a condition
29 or manner contrary to law or regulation;

30 (8) Uses in retail trade, except in the preparation of packages
31 put up in advance of sale and of medical prescriptions, a weight or measure
32 that is not so positioned that its indications may be accurately read and the
33 weighing or measuring operation observed from some position which may
34 reasonably be assumed by a customer; or

35 (9) Violates any provision of §§ 4-18-201 - 4-18-220 and 4-18-
36 222 - 4-18-230 or of the regulations promulgated under the provisions of §§

1 4-18-201 - 4-18-220 and 4-18-222 - 4-18-230 for which a specific penalty has
2 not been prescribed.

3
4 SECTION 213. Arkansas Code § 4-18-211 is amended to read as follows:

5 4-18-211. Impersonation of bureau personnel - Penalty.

6 Any person who impersonates in any way the Director of the Arkansas
7 Bureau of Standards, the deputy director, any one of the inspectors, or a
8 sealer or deputy sealer by the use of his seal or a counterfeit of his seal,
9 or in any other manner, is guilty of a Class A misdemeanor ~~and, upon~~
10 ~~conviction, shall be punished by a fine of not less than one hundred dollars~~
11 ~~(\$100) nor more than one thousand dollars (\$1,000) or by imprisonment for not~~
12 ~~more than one (1) year, or by both fine and imprisonment.~~

13
14 SECTION 214. Arkansas Code § 4-59-302 is amended to read as follows:

15 4-59-302. Issuance of bill containing false statement.

16 Any officer, agent, or servant of a carrier who with intent to defraud
17 issues or aids in issuing a bill for goods, knowing that it contains any
18 false statement, shall be guilty of a ~~crime and upon conviction shall be~~
19 ~~punished for each offense by imprisonment not exceeding one (1) year or by a~~
20 ~~fine not exceeding one thousand dollars (\$1,000), or by both Class A~~
21 ~~misdemeanor.~~

22
23 SECTION 215. Arkansas Code § 4-59-306 is amended to read as follows:

24 4-59-306. Negotiation of bill for unowned or mortgaged goods.

25 Any person who ships goods to which he or she does not have title, or
26 upon which there is a lien or mortgage, and who takes for such goods a
27 negotiable bill which he or she afterwards negotiates for value with intent
28 to deceive and without disclosing his or her want of title or the existence
29 of the lien or mortgage shall be guilty of a ~~crime, and upon conviction shall~~
30 ~~be punished for each offense by imprisonment not exceeding one (1) year or by~~
31 ~~a fine not exceeding one thousand dollars (\$1,000), or by both Class A~~
32 ~~misdemeanor.~~

33
34 SECTION 216. Arkansas Code § 4-59-402 is amended to read as follows:

35 4-59-402. Fraudulent issuance of receipt containing false statement.

36 A warehouseman or any officer, agent, or servant of a warehouseman, who

1 fraudulently issues or aids in fraudulently issuing a receipt for goods,
2 knowing that it contains any false statement, shall be guilty of a ~~crime and~~
3 ~~upon conviction shall be punished for each offense by imprisonment not~~
4 ~~exceeding one (1) year or by a fine not exceeding one thousand dollars~~
5 ~~(\$1,000), or by both Class A misdemeanor.~~

6
7 SECTION 217. Arkansas Code §§ 4-59-404 – 4-59-406 are amended to read
8 as follows:

9 4-59-404. Issuance of receipt for goods owned by warehouseman without
10 statement of ownership.

11 Where there are deposited with or held by a warehouseman goods of which
12 he or she is owner, either solely or jointly, or in common with others, the
13 warehouseman, or any of his or her officers, agents, or servants who, knowing
14 of his or her ownership, issue or aid in issuing a negotiable receipt for the
15 goods which does not state the ownership, shall be guilty of a ~~crime, and~~
16 ~~upon conviction shall be punished for each offense by imprisonment not~~
17 ~~exceeding one (1) year or by a fine not exceeding one thousand dollars~~
18 ~~(\$1,000), or by both Class A misdemeanor.~~

19
20 4-59-405. Delivering goods without obtaining negotiable receipt.

21 A warehouseman or any officer, agent, or servant of a warehouseman, who
22 delivers goods out of the possession of the warehouseman, knowing that a
23 negotiable receipt, the negotiation of which would transfer the right to the
24 possession of the goods, is outstanding and uncanceled, without obtaining
25 the possession of the receipt at or before the time of the delivery, shall be
26 guilty of a ~~crime and upon conviction shall be punished for each offense by~~
27 ~~imprisonment not exceeding one (1) year or by a fine not exceeding one~~
28 ~~thousand dollars (\$1,000), or by both Class A misdemeanor.~~

29
30 4-59-406. Negotiation of receipt by depositor of encumbered or
31 another's goods without disclosing facts.

32 Any person who deposits goods to which he or she has no title, or upon
33 which there is a lien or mortgage, and who takes for the goods a negotiable
34 receipt which he or she afterward negotiates for value, with intent to
35 deceive and without disclosing his or her want of title or the existence of
36 the lien or mortgage, shall be guilty of a ~~crime and upon conviction shall be~~

1 ~~punished for each offense by imprisonment not exceeding one (1) year or by a~~
2 ~~fine not exceeding one thousand dollars (\$1,000), or by both Class A~~
3 ~~misdemeanor.~~

4
5 SECTION 218. Arkansas Code § 4-88-304 is amended to read as follows:

6 4-88-304. Penalties, remedies, and enforcement.

7 (a) When a person violates this subchapter or a regulation prescribed
8 under this subchapter, such violation shall constitute an unfair or deceptive
9 act or practice as defined by this chapter. All remedies, penalties, and
10 authority granted to the Attorney General under this chapter shall be
11 available to the Attorney General for the enforcement of this subchapter.

12 (b) Any person who is found to have violated this subchapter shall be
13 guilty of a Class A misdemeanor ~~and imprisoned not more than one (1) year and~~
14 ~~subject to a fine of not more than one thousand dollars (\$1,000), or both,~~
15 ~~for each violation.~~

16 (c) The remedies and penalties provided by this section are cumulative
17 to each other, the remedies under § 17-25-301 et seq., and the remedies or
18 penalties available under all other laws of this state.

19
20 SECTION 219. Arkansas Code § 4-96-202 is amended to read as follows:

21 4-96-202. Conspiracy to violate subchapter - Penalties.

22 (a) No person shall conspire with any other person to violate this
23 subchapter.

24 (b) Any person who is found to have violated the provisions of this
25 subchapter shall be guilty of a Class A misdemeanor ~~and shall be imprisoned~~
26 ~~not more than one (1) year and subject to a fine of not more than one~~
27 ~~thousand dollars (\$1,000).~~

28 (c)(1) A violation of this subchapter shall constitute an unfair or
29 deceptive act or practice as defined by the Deceptive Trade Practices Act, §
30 4-88-101 et seq.

31 (2) All remedies, penalties, and authority granted to the
32 Attorney General under the Deceptive Trade Practices Act, § 4-88-101 et seq.,
33 shall be available to the Attorney General for the enforcement of this
34 subchapter.

35
36 SECTION 220. Arkansas Code § 5-39-210 is amended to read as follows:

1 5-39-210. Forcible possession of land.

2 Every person who shall take or keep possession of any real estate by
3 actual force or violence, without the authority of law or who, being armed
4 with a deadly or dangerous weapon, shall by violence to any person entitled
5 to the possession, or by putting in fear of immediate danger to his or her
6 person, obtain or keep possession of any real estate or property, without
7 legal authority, shall upon conviction be adjudged guilty of a Class A
8 misdemeanor ~~and be fined not less than fifty dollars (\$50.00) and be~~
9 ~~imprisoned not exceeding one (1) year.~~

10
11 SECTION 221. Arkansas Code § 5-52-108 is amended to read as follows:

12 5-52-108. Compensation for speeches and appearances.

13 (a) Except for the compensation a member of the General Assembly is
14 entitled to from the State of Arkansas for the performance of his or her
15 duties, no such member shall solicit or accept compensation for speeches or
16 other appearances before a group of persons, unless the appearance is made as
17 part of the normal course of business in the legislative member's private
18 occupation.

19 (b) For the purpose of this section "compensation" means any money or
20 anything of value received or to be received as a claim for services, whether
21 in the form of a retainer, fee, salary, expense, allowance, honorarium,
22 forbearance, forgiveness, interest, dividend, royalty, rent, or any other
23 form of recompense or any combination thereof. "Compensation" does not
24 include payments received for food, lodging, or travel which bears a
25 relationship to a legislative member's office when such member is appearing
26 in an official capacity.

27 (c) Any person who knowingly or willfully violates this section shall,
28 upon conviction, be ~~fined an amount not to exceed one thousand dollars~~
29 ~~(\$1,000) or be imprisoned for not more than one (1) year, or both~~ guilty of a
30 Class A misdemeanor.

31
32 SECTION 222. Arkansas Code § 5-55-202 is amended to read as follows:

33 5-55-202. Illegal use, transfer, acquisition, or possession of
34 vouchers.

35 Whoever knowingly uses, transfers, acquires, or possesses vouchers in
36 any manner not authorized by the federal Special Supplemental Food Program

1 for Women, Infants and Children authorized by the Child Nutrition Act of
2 1966, as amended, or federal and state regulations issued pursuant to the
3 Child Nutrition Act of 1966, if such vouchers are of a value of less than one
4 hundred dollars (\$100), shall be guilty of a Class A misdemeanor ~~and shall,~~
5 ~~upon conviction thereof, be fined not more than one thousand dollars (\$1,000)~~
6 ~~or imprisoned for not more than one (1) year, or both.~~

7
8 SECTION 223. Arkansas Code § 5-63-304 is amended to read as follows:

9 5-63-304. Debt adjusting - Penalties.

10 Any person who acts or offers to act as a debt adjuster in this state
11 shall be ~~deemed guilty of a misdemeanor and upon conviction shall be subject~~
12 ~~to a fine of not less than five hundred dollars (\$500) nor more than one~~
13 ~~thousand dollars (\$1,000) or by imprisonment in the county jail not to exceed~~
14 ~~one (1) year, or by both fine and imprisonment~~ guilty of a Class A
15 misdemeanor.

16
17 SECTION 224. Arkansas Code § 7-6-202 is amended to read as follows:

18 7-6-202. Penalties.

19 Any person who knowingly or willfully fails to comply with any
20 provisions of this subchapter shall, upon conviction, be ~~fined an amount not~~
21 ~~to exceed one thousand dollars (\$1,000) or be imprisoned for not more than~~
22 ~~one (1) year, or both~~ guilty of a Class A misdemeanor.

23
24 SECTION 225. Arkansas Code § 16-112-106 is amended to read as follows:

25 16-112-106. Service of writ.

26 (a) The writ shall be served by any qualified officer or by any
27 private individual designated by the judge on the person to whom it is
28 directed or, in his or her absence from the place where the petitioner is
29 confined, on the person having him or her in immediate custody.

30 (b) If the person upon whom the writ ought to be served conceals
31 himself or refuses admittance to the person attempting the service, it may be
32 served by affixing a copy of the writ in some conspicuous place on the
33 outside either of the dwelling house or jail, or place where the party is
34 confined.

35 (c) Any person having in his or her custody or under his or her power
36 any person for whose relief a writ of habeas corpus shall have been issued,

1 or who would be entitled to a writ of habeas corpus, to inquire into the
2 cause of his or her detention, who shall, with the intent to elude the
3 service of the writ or to avoid the effect thereof, transfer the person to
4 the custody, or place him or her under the control or power, of another, or
5 conceal him, or change the place of his or her confinement, shall be deemed
6 guilty of a Class A misdemeanor. ~~Upon conviction, he shall be fined in any~~
7 ~~sum not exceeding one thousand dollars (\$1,000) or imprisoned not exceeding~~
8 ~~one (1) year, or punished by both fine and imprisonment,~~ and shall pay the
9 party injured five hundred dollars (\$500).

10
11 SECTION 226. Arkansas Code § 17-19-102 is amended to read as follows:
12 17-19-102. Penalties.

13 (a) Any person who is found guilty of violating any of the provisions
14 of this chapter shall upon conviction be ~~fined not more than one thousand~~
15 ~~dollars (\$1,000) for each offense or imprisoned for not more than one (1)~~
16 ~~year, or both~~ guilty of a Class A misdemeanor.

17 (b) Any person who falsely represents to the Professional Bail Bond
18 Company and Professional Bail Bondsman Licensing Board that any person has
19 met the education or continuing education requirements of §§ 17-19-107, 17-
20 19-212, and 17-19-401 et seq., shall be guilty of a Class B misdemeanor and
21 upon conviction shall be punished accordingly.

22
23 SECTION 227. Arkansas Code § 17-44-101 is amended to read as follows:
24 17-44-101. Records generally.

25 (a) All dealers or purchasers of junk and scrap metals and materials
26 doing business in the State of Arkansas shall prepare and keep records
27 showing:

- 28 (1) The seller's full name, address, driver's license number,
29 and social security number;
30 (2) The type of scrap metals and material so purchased;
31 (3) The weights of the materials;
32 (4) The license number of the vehicle used in transporting the
33 materials to the place of business.

34 (b) These records shall:

- 35 (1) Be kept for a period of three (3) years;
36 (2) Be made available to any law enforcement officer of the

1 State of Arkansas or of any municipality; and

2 (3) Be available for use in any court, should that be necessary.

3 (c) Any person, firm, or corporation failing to comply with the
4 provisions of this section shall be deemed guilty of a Class A misdemeanor
5 ~~and upon conviction shall be fined an amount not to exceed one thousand~~
6 ~~dollars (\$1000) or imprisoned for not less than six (6) months nor more than~~
7 ~~one (1) year in jail, or subject to both fine and imprisonment.~~

8

9 SECTION 228. Arkansas Code §§ 17-44-103 and 17-44-104 are amended to
10 read as follows:

11 17-44-103. Records of scrap copper utility wire purchases.

12 (a) All dealers or purchasers within this state of scrap copper
13 utility wire shall prepare and maintain records of all purchases of scrap
14 copper utility wire. The record will show the following:

15 (1) The seller's full name, address, driver's license number,
16 and social security number;

17 (2) The license number of the vehicle used in transporting the
18 material to the place of business;

19 (3) The date of the purchase; and

20 (4) The price in money or other consideration paid therefor.

21 (b) Records shall be maintained by the dealer or purchaser for a
22 period of three (3) years and shall be made available, upon request, for
23 inspection by law enforcement agencies and by representatives of public
24 utilities.

25 (c) Purchases of scrap utility wire, either burned or hard drawn, from
26 individuals other than from utility companies must be recorded separately,
27 including all information set forth in subsection (a) of this section, by the
28 purchaser if the purchase exceeds two hundred fifty pounds (250 lbs.).

29 (d) Any utility may notify dealers or purchasers of scrap utility
30 copper wire of a known or presumed theft of wire setting forth any
31 information concerning the theft as might be available to the utility,
32 including, but not limited to, the approximate quantity and size of the wire
33 stolen, the geographical area from which the wire was reported missing or
34 presumed stolen, and any specific distinguishing marks on or in the wire or
35 other method of identifying the wire.

36 (e) If notice is given to a dealer or purchaser and, subsequent

1 thereto, wire meeting that description is purchased by the dealer or offered
2 for sale to the dealer, then the dealer shall notify the local police, if
3 within a municipality, or sheriff's department, if outside a municipality,
4 that the wire was purchased or offered for sale to the dealer.

5 (f) Any person, partnership, firm, or corporation who violates any of
6 the provisions of this section shall upon conviction be guilty of a Class A
7 misdemeanor ~~and shall be fined an amount not to exceed one thousand dollars~~
8 ~~(\$1000) or imprisoned for not less than six (6) months nor more than one (1)~~
9 ~~year in jail, or subject to both fine and imprisonment.~~

10
11 17-44-104. Records of bronze cemetery memorial purchases.

12 (a) Whenever any collector of or dealer in junk or any secondhand
13 property purchases any bronze cemetery vase or receptacle, any bronze
14 cemetery memorial, or any bronze statuary, whatever may be the condition of
15 the vase or receptacle, cemetery memorial, or bronze statuary, he or she
16 shall make a record of the place of business of the seller in addition to all
17 other information required by § 17-44-101.

18 (b) Any peace officer of this state may inspect the register at any
19 reasonable time.

20 (c) Any person violating any of the provisions of this section is
21 guilty of a Class A misdemeanor ~~and upon conviction shall be fined an amount~~
22 ~~not to exceed one thousand dollars (\$1000) or imprisoned for not less than~~
23 ~~six (6) months nor more than one (1) year in jail, or subject to both fine~~
24 ~~and imprisonment.~~

25
26 SECTION 229. Arkansas Code § 23-16-201 is amended to read as follows:

27 23-16-201. Penalty

28 Any person, officer, manager, company, corporation, association, or
29 firm who shall violate any of the provisions of this subchapter shall be
30 deemed guilty of a Class A misdemeanor ~~and be punished by a fine of not less~~
31 ~~than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)~~
32 ~~and by imprisonment in the county jail for a period of not less than thirty~~
33 ~~(30) days nor more than one (1) year.~~

34
35 SECTION 230. Arkansas Code § 23-66-505 is amended to read as follows:

36 23-66-505. Mandatory reporting of fraudulent insurance acts.

1 (a) A person engaged in the business of insurance having knowledge or
2 a reasonable belief that a fraudulent insurance act is being, will be, or has
3 been committed shall provide to the Insurance Commissioner the information
4 required by, and in a manner prescribed by, the commissioner.

5 (b) Any person engaged in the business of insurance who knowingly
6 fails to report as required by subsection (a) of this section shall be guilty
7 of a Class A misdemeanor ~~and upon conviction shall be punished by a fine not~~
8 ~~to exceed one thousand dollars (\$1,000) or by imprisonment for a period not~~
9 ~~to exceed one (1) year, or by both fine and imprisonment.~~

10 (c) Any other person having knowledge or a reasonable belief that a
11 fraudulent insurance act is being, will be, or has been committed may provide
12 to the commissioner the information required by, and in a manner prescribed
13 by, the commissioner.

14
15 SECTION 231. Arkansas Code § 23-76-105 is amended to read as follows:
16 23-76-105. Penalties - Enforcement.

17 (a) In lieu of suspension or revocation of a certificate of authority
18 under § 23-76-123, the Insurance Commissioner may levy an administration
19 penalty in an amount not less than two hundred fifty dollars (\$250), nor more
20 than two thousand five hundred dollars (\$2,500), if reasonable notice in
21 writing is given of the intent to levy the penalty and the health maintenance
22 organization has a reasonable time within which to remedy the defect in its
23 operations which gave rise to the penalty citation. The commissioner may
24 augment this penalty by an amount equal to the sum that he or she calculates
25 to be the damages suffered by the enrollees or other members of the public.

26 (b) Any person who willfully violates this chapter shall be guilty of
27 a Class A misdemeanor ~~and may be punished by a fine not to exceed one~~
28 ~~thousand dollars (\$1,000) or by imprisonment for a period not exceeding one~~
29 ~~(1) year, or both fine and imprisonment.~~

30 (c)(1) If the commissioner or the Director of the Department of Health
31 shall for any reason have cause to believe that any violation of this chapter
32 has occurred or is threatened, the commissioner or the director may give
33 notice to the health maintenance organization and to the representatives, or
34 other persons who appear to be involved in the suspected violation, to
35 arrange a conference with the alleged violators or their authorized
36 representatives for the purpose of attempting to ascertain the facts relating

1 to the suspected violation and, in the event it appears that any violation
2 has occurred or is threatened, to arrive at an adequate and effective means
3 of correcting or preventing the violations.

4 (2) Proceedings under this subsection shall not be governed by
5 any formal procedural requirements and may be conducted in such manner as the
6 commissioner or the director may deem appropriate under the circumstances.

7 (d)(1) The commissioner may issue an order directing a health
8 maintenance organization or a representative of a health maintenance
9 organization to cease and desist from engaging in any act or practice in
10 violation of the provisions of this chapter.

11 (2) Within thirty (30) days after service of the order of cease
12 and desist, the respondent may request a hearing on the questions of whether
13 acts or practices in violation of this chapter have occurred. The hearings
14 shall be conducted pursuant to the provisions of §§ 23-61-303 - 23-61-307,
15 and judicial review shall be available as provided in § 23-66-212.

16 (e) In the case of any violation of the provisions of this chapter, if
17 the commissioner elects not to issue a cease and desist order, or in the
18 event of noncompliance with a cease and desist order issued pursuant to
19 subsection (d) of this section, the commissioner may institute a proceeding
20 to obtain injunctive relief, or seeking other appropriate relief, in the
21 Circuit Court of Pulaski County for actions of this nature.

22
23 SECTION 232. Arkansas Code § 23-111-406 is amended to read as follows:
24 23-111-406. Electoral and residency requirement.

25 (a) A majority of all officers and directors of any greyhound dog
26 track in this state shall be qualified electors of this state who have
27 resided in the county in which the track is located for a period of not less
28 than two (2) years and shall maintain a residence in the county during their
29 tenure as officers or directors thereof.

30 (b) Any person who may be elected or selected as an officer or
31 director of any greyhound dog track, prior to his or her election or
32 selection, shall submit to the Arkansas Racing Commission a duly verified
33 affidavit setting forth information indicating whether he or she is a
34 qualified elector of this state, his or her place of residence, and the
35 period of time during which he or she has resided at his or her place of
36 residence, in order that the commission may determine that the provisions of

1 this section are being complied with.

2 (c) If there is any change in any of the material facts noted on the
3 verified affidavit filed with the commission by the officer or director of a
4 greyhound dog track, the officer or director, within thirty (30) days after
5 the occurrence of the change, shall submit a new verified affidavit to the
6 commission as required in this section, noting the change.

7 (d) Any person who furnishes false information in the affidavit filed
8 with the commission, as required in this section, or fails to file a
9 replacement verified affidavit with the commission within thirty (30) days
10 after the change of any material fact noted on the affidavit previously filed
11 with the commission shall be guilty of a Class A misdemeanor ~~and upon~~
12 ~~conviction shall be subject to a fine of not less than one hundred dollars~~
13 ~~(\$100) nor more than one thousand dollars (\$1,000) or imprisonment for not~~
14 ~~less than three (3) months nor more than one (1) year, or both fine and~~
15 ~~imprisonment.~~

16

17 SECTION 233. Arkansas Code § 2-20-103 is amended to read as follows:
18 2-20-103. Penalty.

19 Any person who shall violate any of the provisions of this subchapter
20 shall be deemed guilty of a Class B misdemeanor ~~and upon conviction shall be~~
21 ~~punished by a fine of not more than five hundred dollars (\$500) or by~~
22 ~~imprisonment for not more than ninety (90) days, or by both fine and~~
23 ~~imprisonment.~~

24

25 SECTION 234. Arkansas Code § 2-20-103 is amended to read as follows:
26 2-35-203. Penalty.

27 Anyone violating any of the provisions of this subchapter shall be
28 deemed guilty of a Class B misdemeanor. ~~Upon conviction, where the~~
29 ~~punishment is not specifically set out, an offender shall be punished by a~~
30 ~~fine of not less than twenty five dollars (\$25.00) nor more than five hundred~~
31 ~~dollars (\$500) or by imprisonment in the county jail not exceeding ninety~~
32 ~~(90) days, or by both a fine and imprisonment.~~

33

34 SECTION 235. Arkansas Code § 6-51-615 is amended to read as follows:

35 6-51-615. Denial or suspension of admissions representative's license
36 - Review - Penalty.

1 (a) No person shall be granted an admissions representative's license
2 if, upon investigation, the applicant is found not to meet the requirements
3 for an admissions representative under this subchapter.

4 (b) The director, upon receipt of information considered dependable
5 which indicates fraud, misrepresentation, or unethical practices on the part
6 of an applicant, may deny issuance of a license applied for or may suspend
7 immediately a license already issued pending a review by the State Board of
8 Private Career Education.

9 (c) Any applicant dissatisfied with the decision to refuse, suspend,
10 or revoke a license may seek judicial review, provided the applicant files
11 notice of appeal in Pulaski County Circuit Court within fifteen (15) calendar
12 days immediately following the date of notification of action by the
13 director.

14 (d) Any person violating the provisions of this subchapter shall be
15 guilty of a Class B misdemeanor ~~and shall, upon conviction, be fined not more~~
16 ~~than five hundred dollars (\$500) or be imprisoned in the county jail for not~~
17 ~~more than three (3) months, or both.~~

18
19 SECTION 236. Arkansas Code § 16-85-101 is amended to read as follows:
20 16-85-101. Right to attorney, physician, and phone calls.

21 (a) While confined to any prison or jail in this state awaiting trial,
22 no prisoner shall be denied the right to:

23 (1) Consult an attorney of the prisoner's own choosing;

24 (2) Call a physician of the prisoner's own choosing if in need
25 of one; or

26 (3) Place free telephone calls to a bondsperson if the calls are
27 local calls.

28 (b) Any officer or other person having charge or supervision of any
29 prisoner in the state who refuses to permit the prisoner to consult an
30 attorney of the prisoner's own choosing, call a physician of the prisoner's
31 own choosing, or place free telephone calls to a bondsperson if the calls are
32 local calls shall be deemed guilty of a Class B misdemeanor ~~and shall be~~
33 ~~fined in any sum not less than one hundred dollars (\$100) nor more than five~~
34 ~~hundred dollars (\$500) and may be confined to prison for not more than ninety~~
35 ~~(90) days.~~

36

1 SECTION 237. Arkansas Code § 17-15-103 is amended to read as follows:
2 17-15-103. Penalties.

3 A person shall be guilty of a Class B misdemeanor ~~and shall upon~~
4 ~~conviction be sentenced to pay a fine of not less than fifty dollars (\$50.00)~~
5 ~~nor more than five hundred dollars (\$500) or suffer imprisonment for a period~~
6 ~~not exceeding three (3) months, or be both so fined and imprisoned, each day~~
7 of the unlawful practice to constitute a distinct and separate offense, if
8 that person shall:

9 (1) Practice or offer to practice the profession of architecture
10 in this state without being registered or exempted there from in accordance
11 with the provisions of this chapter;

12 (2) Give any false or forged evidence of any kind to the
13 Arkansas State Board of Architects or to any member thereof for the purpose
14 of obtaining a certificate of registration;

15 (3) Falsely impersonate any other registrant of like or
16 different name;

17 (4) Attempt to use an expired or revoked certificate of
18 registration; or

19 (5) Violate, or aid or abet any violation of, any of the
20 provisions of this chapter.

21
22 SECTION 238. Arkansas Code § 17-84-103 is amended to read as follows:
23 17-84-103. Penalty – Injunction.

24 (a) Any person convicted of violating any provision of this chapter
25 shall be guilty of a Class B misdemeanor ~~and upon conviction shall be subject~~
26 ~~to a fine not to exceed five hundred dollars (\$500) or to imprisonment in the~~
27 ~~county jail for not more than ninety (90) days, or both.~~

28 (b) Any violation of the provisions of this chapter may be enjoined by
29 the circuit courts of this state.

30
31 SECTION 239. Arkansas Code § 23-110-411 is amended to read as follows:
32 23-110-411. Admission tax.

33 (a) Each franchise holder authorized to conduct a race meet under this
34 chapter shall pay to the Arkansas Racing Commission, for the use and benefit
35 of the State of Arkansas, either ten percent (10%) of all moneys received
36 each day from admissions paid by persons attending the races at the meeting

1 or the sum of ten cents (10¢) on each and every paid admission, whichever sum
2 is the greater. All payments provided for in this section shall be made each
3 day of any and every race meeting.

4 (b)(1) The issuance of all tax-free passes shall be by the franchise
5 holder or its employees or agents. The commission shall have no authority
6 over the issuance or distribution of such passes.

7 (2) It shall be unlawful for any person, corporation, firm,
8 partnership, or any other entity, to sell or offer for sale, for any
9 consideration, any tax-free pass issued by the commission for general
10 admission to the racing facility of any franchise holder.

11 (3) Any person, corporation, firm, partnership, or other entity,
12 who sells or offers for sale tax-free passes shall for each such offense,
13 upon conviction, be guilty of a Class B misdemeanor. ~~The penalty for each~~
14 ~~such offense shall be a fine in an amount not to exceed five hundred dollars~~
15 ~~(\$500) or imprisonment for a period of time not to exceed ninety (90) days,~~
16 ~~or both.~~

17
18 SECTION 240. Arkansas Code § 23-111-510 is amended to read as follows:
19 23-111-510. Admission tax.

20 (a)(1) Each franchise holder authorized to conduct a race meeting
21 under this chapter shall pay to the Arkansas Racing Commission, for the use
22 and benefit of the State of Arkansas, either ten percent (10%) of all moneys
23 received each day from admissions paid by persons attending the races at the
24 meeting, or the sum of ten cents (10¢) on each and every paid admission,
25 whichever sum is the greater.

26 (2) All payments provided for in this section shall be made each
27 day of any and every race meeting.

28 (b)(1) The issuance of all tax-free passes shall be by the franchise
29 holder or its employees or agents. The commission shall have no authority
30 over the issuance or distribution of such passes.

31 (2) It shall be unlawful for any person, corporation, firm,
32 partnership, or any other entity, to sell or offer for sale, for any
33 consideration, any tax-free pass issued by the commission for general
34 admission to the racing facility of any franchise holder.

35 (3) Any person, corporation, firm, partnership, or other entity,
36 who sells or offers for sale tax-free passes shall, upon conviction, be

1 guilty of a Class B misdemeanor. ~~The penalty for each such offense shall be a~~
2 ~~fine in an amount not to exceed five hundred dollars (\$500) or imprisonment~~
3 ~~for a period of time not to exceed ninety (90) days, or both.~~

4
5 SECTION 241. Arkansas Code § 3-3-217 is amended to read as follows:

6 3-3-217. Free lunches prohibited – Penalty.

7 (a) It shall be unlawful for any person, company, or corporation to
8 give free lunches in any place where liquors are sold by such persons,
9 company, or corporation.

10 (b) Any person, company, or corporation violating the provisions of
11 this section shall be guilty of a Class C misdemeanor ~~and upon conviction~~
12 ~~shall be punished by a fine of not less than twenty five dollars (\$25.00) nor~~
13 ~~more than one hundred dollars (\$100) or by imprisonment in the county jail~~
14 ~~for a period not exceeding thirty (30) days, or by both the fine and~~
15 ~~imprisonment.~~

16
17 SECTION 242. Arkansas Code § 6-19-110 is amended to read as follows:

18 6-19-110. Bus drivers - Loading and discharging pupils.

19 (a) The driver of a school bus shall load and discharge the passengers
20 of the bus at the extreme right side of the paved or improved portion of the
21 road or highway and at the right curbing when such curbing is maintained on
22 the road or highway.

23 (b)(1) As used in this section, "motor vehicle" means all vehicles,
24 movable engines, or machines which are operated or propelled by motor vehicle
25 fuel as hereinafter defined and which are operated and used for travel on
26 public roads and highways.

27 (2) The term "school bus", when used in this section, shall mean
28 any vehicle being used to convey children to and from school and which is
29 marked in both front and rear with the words "SCHOOL BUS", in plain
30 lettering, readable in daylight at a distance of at least two hundred feet
31 (200') from such vehicle.

32 (c) Whoever, being the driver of a vehicle or school bus, fails to
33 carry out the provisions of this section shall be guilty of a Class C
34 misdemeanor ~~and upon conviction shall be fined not less than ten dollars~~
35 ~~(\$10.00) nor more than one hundred dollars (\$100) or be imprisoned in the~~
36 ~~county jail not to exceed thirty (30) days, or both.~~

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SECTION 243. Arkansas Code § 20-7-307 is amended to read as follows:
20-7-307. Penalties.

(a)(1) Any person, firm, corporation, organization, or institution that violates any of the provisions of this subchapter or any rules and regulations promulgated ~~hereunder~~ under this subchapter regarding confidentiality of information shall be guilty of a Class C misdemeanor ~~and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment not exceeding one (1) month, or both.~~

(2) Each day of violation shall constitute a separate offense.

(b) Any person, firm, corporation, organization, or institution knowingly violating any of the provisions of this subchapter or any rules and regulations promulgated ~~hereunder shall be guilty of a misdemeanor and, upon a plea of guilty, a plea of nolo contendere, or~~ under this subchapter shall be guilty of a violation and upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500).

(c)(1) Every person, firm, corporation, organization, or institution that violates any of the rules and regulations adopted by the State Board of Health or that violates any provision of this subchapter may be assessed a civil penalty by the board.

(2) The penalty shall not exceed two hundred fifty dollars (\$250) for each violation.

(3) However, no civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 244. Arkansas Code § 17-96-301 is amended to read as follows:
17-96-301. License required - Penalty for unlawful practice.

(a) It shall be unlawful for any person to profess to be a podiatrist or to practice or assume the duties incident to podiatric medicine unless licensed to do so by the Arkansas Board of Podiatric Medicine.

(b)(1) If any person shall use the name or title "podiatrist", "chiropracist", "D.S.C.", "D.P.M.", "foot specialist", or any other word, abbreviation, or title to that person's name indicating or designed to

1 indicate the qualifications to practice podiatric medicine without first
2 obtaining from the board a license authorizing the practice of podiatric
3 medicine in this state, it shall be deemed prima facie evidence of practicing
4 podiatric medicine within the meaning of this chapter.

5 (2) Upon conviction, the person shall be guilty of a Class A
6 misdemeanor and shall be fined not less than one hundred dollars (\$100) nor
7 more than five hundred dollars (\$500) or imprisoned for not less than three
8 (3) months nor more than one (1) year, or both. The fine and imprisonment are
9 to be at the discretion of the court or jury.

10 (3) Each separate day on which any person so practices or
11 attempts to practice or holds out to so practice or does both without the
12 registration and certificate as provided in this chapter shall constitute a
13 separate and distinct offense.

14
15 SECTION 245. Arkansas Code § 26-57-241 is amended to read as follows:
16 26-57-241. Reuse of containers unlawful - Penalty.

17 Any person who reuses or refills with cigarettes any box, package, or
18 container from which tax paid tobacco products have been removed is guilty of
19 a Class D felony ~~and upon conviction shall be punished as is provided by § 5-~~
20 ~~1-106(e).~~

21
22 SECTION 246. Arkansas Code § 5-36-116 is amended to read as follows:
23 5-36-116. Shoplifting.

24 (a) A person engaging in conduct giving rise to a presumption under §
25 5-36-102(b) may be detained in a reasonable manner and for a reasonable
26 length of time by a ~~peace~~ law enforcement officer or a merchant or a
27 merchant's employee in order that recovery of such goods may be effected. The
28 detention by a peace officer, merchant, or merchant's employee shall not
29 render the ~~peace~~ law enforcement officer, merchant, or merchant's employee
30 criminally or civilly liable for false arrest, false imprisonment, or
31 unlawful detention.

32 (b)(1) The activation of an antishoplifting or inventory control
33 device as a result of a person exiting the establishment or a protected area
34 within the establishment shall constitute reasonable cause for the detention
35 of the person so exiting by the owner or operator of the establishment or by
36 an agent or employee of the owner or operator, provided sufficient notice has

1 been posted to advise the patrons that such a device is being utilized. Each
2 such detention shall be made only in a reasonable manner and only for a
3 reasonable period of time sufficient for any inquiry into the circumstances
4 surrounding the activation of the device or for the recovery of goods. Such
5 detention by a ~~peace~~ law enforcement officer, merchant, or merchant's
6 employee shall not render such ~~peace~~ law enforcement officer, merchant, or
7 merchant's employee criminally or civilly liable for false arrest, false
8 imprisonment, or unlawful detention.

9 (2) For purposes of this section, "antishoplifting or inventory
10 control device" means a mechanism or other device designed and operated for
11 the purpose of detecting the removal from a mercantile establishment or
12 similar enclosure or from a protected area within such an enclosure of
13 specially marked or tagged merchandise.

14 (c) A ~~peace~~ law enforcement officer may arrest without a warrant upon
15 probable cause for believing the suspect has committed the offense of
16 shoplifting. The ~~peace~~ law enforcement officer, merchant, or merchant's
17 employee who has observed the person accused of committing the offense of
18 shoplifting shall provide a written statement which shall serve as probable
19 cause to justify the arrest. The accused shall be brought before a magistrate
20 forthwith and afforded the opportunity to make a bond or recognizance as in
21 other criminal cases.

22
23 SECTION 247. Arkansas Code § 5-73-210 is amended to read as follows:
24 5-73-210. Search warrants.

25 Warrant to search any house or place and seize any machine gun adapted
26 to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber
27 possessed in violation of this subchapter may issue in the same manner and
28 under the same restrictions as provided by law for stolen property, and any
29 court of record upon application of the prosecuting attorney shall have
30 jurisdiction and power to order any illegal machine gun, thus ~~or otherwise~~
31 legally seized, to be confiscated and either destroyed or delivered to a
32 ~~peace~~ law enforcement officer of the state or a political subdivision
33 thereof.

34
35 SECTION 248. Arkansas Code § 16-81-105 is amended to read as follows:
36 16-81-105. Execution of summons and service of process.

1 Any ~~peace~~ law enforcement officer to whom any criminal summons or
2 warrant of arrest is directed may serve or execute it in any county in the
3 state.

4
5 SECTION 249. Arkansas Code § 16-81-203 is amended to read as follows:
6 16-81-203. Grounds to reasonably suspect.

7 The following are among the factors to be considered in determining if
8 the officer has grounds to "reasonably suspect":

- 9 (1) The demeanor of the suspect;
- 10 (2) The gait and manner of the suspect;
- 11 (3) Any knowledge the officer may have of the suspect's
12 background or character;
- 13 (4) Whether the suspect is carrying anything, and what he is
14 carrying;
- 15 (5) The manner in which the suspect is dressed, including bulges
16 in clothing, when considered in light of all of the other factors;
- 17 (6) The time of the day or night the suspect is observed;
- 18 (7) Any overheard conversation of the suspect;
- 19 (8) The particular streets and areas involved;
- 20 (9) Any information received from third persons, whether they
21 are known or unknown;
- 22 (10) Whether the suspect is consorting with others whose conduct
23 is "reasonably suspect";
- 24 (11) The suspect's proximity to known criminal conduct;
- 25 (12) Incidence of crime in the immediate neighborhood;
- 26 (13) The suspect's apparent effort to conceal an article; and
- 27 (14) Apparent effort of the suspect to avoid identification or
28 confrontation by ~~the police~~ a law enforcement officer.

29
30 SECTION 250. Arkansas Code § 16-81-301 is amended to read as follows:
31 16-81-301. Authority of ~~peace~~ law enforcement officers.

32 Any ~~peace~~ law enforcement officer of this state in fresh pursuit of a
33 person who is reasonably believed to have committed a felony in this state or
34 has committed, or attempted to commit, any criminal offense in this state in
35 the presence of such officer, or for whom the officer holds a warrant of
36 arrest for a criminal offense, shall have the authority to arrest and hold in

1 custody such person anywhere in this state.

2
3 SECTION 251. Arkansas Code § 16-81-303 is amended to read as follows:
4 16-81-303. Definition.

5 The term "fresh pursuit" as used in this subchapter shall include fresh
6 pursuit as defined by the common law and also the pursuit of a person who has
7 committed a felony or is reasonably suspected of having committed a felony in
8 this state, or who has committed or attempted to commit any criminal offense
9 in this state in the presence of the arresting law enforcement officer
10 referred to in § 16-81-301 or for whom such officer holds a warrant of arrest
11 for a criminal offense. It shall also include the pursuit of a person
12 suspected of having committed a supposed felony in this state, though no
13 felony has actually been committed, if there is reasonable ground for so
14 believing. Fresh pursuit as used in this subchapter shall not necessarily
15 imply instant pursuit, but pursuit without unreasonable delay.

16
17 SECTION 252. Arkansas Code § 16-85-603 is amended to read as follows:
18 16-85-603. Arrest - Issuance.

19 (a) The process of arrest shall be issued by the clerk, upon the order
20 of the court and may be reissued from time to time by order of the
21 prosecuting attorney.

22 (b) The process of arrest on an indictment shall be a bench warrant.

23 (c) A bench warrant may be substantially in the following form:

24 "Pulaski Circuit Court - State of Arkansas.

25 "~~To any Sheriff, Coroner, Jailer, Constable, Marshal, or Policeman in~~
26 Law Enforcement Officer of the State:

27 "You are hereby commanded forthwith to arrest A. B., and bring him or
28 her as provided by law before the Pulaski Circuit Court, to answer an
29 indictment found in that court against him or her for felony, (or
30 misdemeanor, as the case may be) or, if the court be adjourned for the term,
31 that you deliver him or her as provided by law to the custody of the jailer
32 of (Pulaski) County.

33 "Given under my hand and seal of said court this _____ day of
34 _____, 1920 .

35
36 C. D., Clerk, P. C. C."

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SECTION 253. Arkansas Code § 5-54-101 is amended to read as follows:
5-54-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Correctional facility" means any place used for the confinement of persons charged with or convicted of an offense or otherwise confined under a court order. "Correctional facility" does not include ~~juvenile training school~~ youth services programs and applies to the Arkansas State Hospital only as to persons detained there charged with or convicted of an offense;

(2) "Custody" means actual or constructive restraint by a law enforcement officer pursuant to an arrest or a court order but does not include detention in a correctional facility, ~~juvenile training school~~ youth services program, or the Arkansas State Hospital;

(3) "Escape" means the unauthorized departure of a person from custody or a correctional facility;

(4) "Governmental function" means any activity which a public servant is legally authorized to undertake on behalf of any governmental unit he or she serves;

(5) "Implement for escape" means any weapon, tool, or other thing which may be useful for escape;

(6) "Implement for unauthorized departure" means any weapon, tool, or other thing which may be useful for unauthorized departure;

(7) "Juvenile detention facility" means any facility for the temporary care of juveniles alleged to be delinquent, or adjudicated delinquent and awaiting disposition, who require secure custody in a physically restricting facility designed and operated with all entrances and exits under the exclusive control of the facility's staff, so that a juvenile may not leave the facility unsupervised or without permission;

(8) "Physical force" means any bodily impact, restraint, or confinement, or the threat thereof;

(9) "Deadly physical force" means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury;

(10) "Prohibited article" means:

(A) An intoxicating beverage other than sacramental wine

1 labeled as such and supplied by a religious official who supplies wine to an
2 inmate in the Arkansas Department of Correction and Community Punishment for
3 the sole purpose of approved religious services, pursuant to rules and
4 regulations promulgated by the Board of Correction and Community Punishment;

5 (B) A controlled substance, as defined by subchapters 1-6
6 of chapter 64 of this title as amended, not prescribed by a physician for the
7 benefit of the person to whom it is delivered;

8 (C) A weapon, including a firearm or anything manifestly
9 designed, made, adapted, or capable of being adapted to inflict physical
10 injury, and anything that in the manner of its use or intended use is capable
11 of causing physical injury; or

12 (D) Anything furnished an inmate in a correctional
13 facility, the Arkansas State Hospital, or juvenile training school without
14 authorization of a person charged with the duty of maintaining the safety or
15 security of such institution or any person confined there;

16 (11) "Public record" includes all official books, papers,
17 exhibits, or records of any type required by law to be created by or received
18 and retained in any governmental office or agency, affording notice or
19 information to the public, or constituting a memorial of an act or
20 transaction of a public office or public servant;

21 (12) "The Arkansas State Hospital" includes any subdivision or
22 facility thereof and any other hospital established by law or legally
23 designated for similar purposes; and

24 ~~(13) "Youth services facility" means a facility, operated by the~~
25 ~~state or its designee, for the care of juveniles who have been adjudicated~~
26 ~~delinquent or convicted of a crime and who require secure custody in either a~~
27 ~~physically restrictive facility or a staff-secured facility, operated so that~~
28 ~~a juvenile may not leave the facility unsupervised or without supervision.~~

29 (13) "Youth services program" means a residential program
30 operated by the Division of Youth Services of the Department of Human
31 Services or its contractor for the purpose of detaining, housing, and
32 treating persons committed to the division. A person committed to the
33 division and placed in a youth services program is deemed to be in the
34 custody of the program while attending or participating in any activity
35 conducted or arranged by the program, regardless of the physical location of
36 the activity.

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SECTION 254. Arkansas Code § 5-54-110 is amended to read as follows:
5-54-110. First degree escape.

(a) A person commits the offense of first degree escape if:

(1) At any time, including from the point of departure from confinement to the return to confinement, aided by another person actually present, he or she uses or threatens to use physical force in escaping from:

(A) Custody;

(B) A correctional facility;

(C) A juvenile detention facility; or

(D) A youth ~~services facility~~; or services program; or

(2) At any time, including from the point of departure from confinement to the return to confinement, he or she uses or threatens to use a deadly weapon in escaping from:

(A) Custody;

(B) A correctional facility;

(C) A juvenile detention facility; or

(D) A youth services ~~facility~~ program.

(b) First degree escape is a Class C felony.

SECTION 255. Arkansas Code § 5-54-111 is amended to read as follows:
5-54-111. Second degree escape.

(a) A person commits the offense of second degree escape if he or she:

(1) At any time, including from the point of departure from confinement to the return to confinement, uses or threatens to use physical force in escaping from custody;

(2) Having been found guilty of a felony, escapes from custody;

(3) Escapes from a correctional facility;

(4) Escapes from a juvenile detention facility; or

(5) Escapes from a youth services ~~facility~~ program.

(b) Second degree escape is a Class D felony.

SECTION 256. Arkansas Code § 5-54-116 is amended to read as follows:
5-54-116. Aiding an unauthorized departure.

(a) A person commits the offense of aiding an unauthorized departure

1 if, not being an inmate in a youth services ~~facility~~ program, a youth
2 services facility, or the Arkansas State Hospital, he or she knowingly aids
3 another person in making or attempting to make an unauthorized departure from
4 a juvenile detention facility, a youth services ~~facility,~~ program, or the
5 Arkansas State Hospital.

6 (b) Aiding an unauthorized departure is a Class C felony if the person
7 aiding an unauthorized departure uses physical force or uses or threatens to
8 use a deadly weapon. Otherwise, it is a Class A misdemeanor.

9
10 SECTION 257. Arkansas Code § 5-54-118 is amended to read as follows:

11 5-54-118. Furnishing implement for unauthorized departure.

12 (a) A person commits the offense of furnishing an implement for
13 unauthorized departure if, with the purpose of facilitating an unauthorized
14 departure, he or she:

15 (1) Introduces such an implement into the Arkansas State
16 Hospital or a ~~juvenile training school; or~~ youth services program; or

17 (2) Provides a person detained in the Arkansas State Hospital or
18 a ~~juvenile training school~~ youth services program with such an implement.

19 (b) Furnishing an implement for unauthorized departure is a Class C
20 felony, if the implement furnished is a deadly weapon. Otherwise, it is a
21 Class A misdemeanor.

22
23 SECTION 258. Arkansas Code § 5-54-119 is amended to read as follows:

24 5-54-119. Furnishing prohibited articles.

25 (a) A person commits the offense of furnishing a prohibited article if
26 he or she knowingly:

27 (1) Introduces a prohibited article into a correctional
28 facility, the Arkansas State Hospital, or a ~~juvenile training school; or~~
29 youth services program; or

30 (2) Provides a person confined in a correctional facility, the
31 Arkansas State Hospital, or a ~~juvenile training school~~ youth services
32 program, with a prohibited article.

33 (b)(1) Furnishing or providing a weapon, intoxicating beverage,
34 controlled substance, moneys, a cellular telephone or other communication
35 device, the components of a cellular telephone or other communication device,
36 or any other items that would facilitate an escape, a continuing criminal

1 enterprise as defined in § 5-64-414, or violence within a facility is a Class
2 B felony. Otherwise furnishing a prohibited article is a Class C felony.

3 (2) However, this section shall not apply to a religious
4 official who supplies sacramental wine labeled as such to an inmate in the
5 Arkansas Department of Correction for the sole purpose of approved religious
6 services, pursuant to rules and regulations promulgated by the Board of
7 ~~Correction and Community Punishment~~ Corrections.

8
9 SECTION 259. Arkansas Code § 5-51-307 is amended to read as follows:

10 5-51-307. Closing and restricting use of highway.

11 (a) If it shall become necessary for a public highway to be closed to
12 travel for the protection of the public, it shall be lawful for the
13 prosecuting attorney of the county where the highway is sought to be closed
14 to apply to the ~~chancery court or~~ circuit judge for an order closing same,
15 stating in writing the reasons and necessity therefor.

16 (b) The court shall cause reasonable notice to be given to all
17 interested parties that the application is made, fixing a time and place for
18 hearing.

19 (c) All parties interested as landowners or users of the highway, or
20 to be affected by the closing, shall be entitled to be made parties to the
21 cause and heard on the application.

22 (d) If the court shall find from the evidence that it is reasonable,
23 just, and proper that travel on the highway should be restricted or
24 prevented, appropriate orders shall be made by the court to do so, having due
25 regard to the rights of the public and all parties in interest.

26 (e) Any aggrieved person may appeal from such orders as in ~~other cases~~
27 in equity any other case.

28
29 SECTION 260. Arkansas Code § 5-73-130 is amended to read as follows:

30 5-73-130. Seizure and forfeiture of firearm - Seizure and forfeiture
31 of motor vehicle - Disposition of property seized.

32 (a) Whenever a person under eighteen (18) years of age is unlawfully
33 in possession of a firearm, the firearm shall be seized and, after an
34 adjudication of delinquency or a conviction, shall be subject to forfeiture.

35 (b) Whenever a felon or a person under eighteen (18) years of age is
36 unlawfully in possession of a firearm in a motor vehicle, the motor vehicle

1 shall be subject to seizure and, after an adjudication of delinquency or a
2 conviction, subject to forfeiture.

3 (c) As used in this section, the term "unlawfully in possession of a
4 firearm" shall not include any act of possession of a firearm which is
5 prohibited only by:

6 (1) Section 15-43-214, unlawful to possess firearms while
7 hunting deer or turkey by bow and arrow;

8 (2) Section 15-43-225, unlawful for guide for persons hunting
9 migratory birds to carry gun;

10 (3) Section 15-43-317, unlawful to shoot fish with a gun;

11 (4) Section 5-73-127, unlawful to possess loaded center-fire
12 weapons in certain areas; or

13 (5) A regulation of the Arkansas State Game and Fish Commission.

14 (d) The procedures for forfeiture and disposition of the seized
15 property shall be as follows:

16 (1) The prosecuting attorney of the judicial district within
17 whose jurisdiction the property is seized which is sought to be forfeited
18 shall promptly proceed against the property by filing in the circuit court ~~or~~
19 ~~the juvenile division of chancery court having jurisdiction of such person a~~
20 petition for an order to show cause why the circuit court ~~or the juvenile~~
21 ~~division of chancery court~~ should not order forfeiture of such property.

22 (2) The petition shall be verified and shall set forth:

23 (A) A statement that the action is brought pursuant to
24 this section;

25 (B) The law enforcement agency bringing the action;

26 (C) A description of the property sought to be forfeited;

27 (D) A statement that on or about a date certain there was
28 an adjudication of delinquency or a conviction and a finding that the
29 property seized is subject to forfeiture;

30 (E) A statement detailing the facts in support of
31 subdivision (d)(1) of this section; and

32 (F) A list of all persons known to the law enforcement
33 agency, after diligent search and inquiry, who may claim an ownership
34 interest in the property by title or registration or by virtue of a lien
35 allegedly perfected in the manner prescribed by law.

36 (e)(1) Upon receipt of a petition complying with the requirements of

1 subdivision (d)(1) of this section, the judge of the circuit court ~~or the~~
2 ~~juvenile division of chancery court~~ having jurisdiction shall issue an order
3 to show cause setting forth a statement that this subchapter is the
4 controlling law.

5 (2) In addition, the order shall set a date at least forty-one
6 (41) days from the date of first publication of the order pursuant to
7 subsection (f) of this section for all persons claiming an interest in the
8 property to file such pleadings as they desire as to why the circuit court ~~or~~
9 ~~the juvenile division of chancery court~~ should not order the forfeiture of
10 such property for use, sale, or other disposition by the law enforcement
11 agency seeking forfeiture of the property.

12 (3) The circuit court ~~or the juvenile division of chancery court~~
13 shall further order that all persons who do not appear on that date are
14 deemed to have defaulted and waived any claim to the subject property.

15 (f)(1) The prosecuting attorney shall give notice of the forfeiture
16 proceedings by:

17 (A) Causing to be published a copy of the order to show
18 cause ~~twice~~ two (2) times each week for two (2) consecutive weeks in a
19 newspaper having general circulation in the county where the property is
20 located, with the last publication being not less than five (5) days before
21 the show cause hearing; and

22 (B) Sending a copy of the petition and order to show cause
23 by certified mail, return receipt requested, to each person having ownership
24 of, or a security interest in, the property or in the manner provided in Rule
25 4 of the Arkansas Rules of Civil Procedure, if:

26 (i) The property is of a type for which title or
27 registration is required by law;

28 (ii) The owner of the property is known in fact to
29 the law enforcement agency at the time of seizure; or

30 (iii) The property is subject to a security interest
31 perfected in accordance with the Uniform Commercial Code, § 4-1-101 et seq.

32 (2) The law enforcement agency shall be obligated only to make
33 diligent search and inquiry as to the owner of the property, and if, after
34 diligent search and inquiry, such agency is unable to ascertain the owner,
35 the requirement of actual notice by mail with respect to persons having
36 perfected security interests in the property shall not be applicable.

1 (g) At the hearing on the matter, the petitioner shall have the burden
2 to establish that the property is subject to forfeiture by a preponderance of
3 the evidence.

4 (h) In determining whether or not a motor vehicle should be ordered
5 forfeited, the circuit court ~~or the juvenile division of chancery court~~ may
6 take into consideration the following factors:

7 (1) Any prior criminal conviction or delinquency adjudication of
8 the felon or juvenile;

9 (2) Whether or not the firearm was used in connection with any
10 other criminal acts;

11 (3) Whether the vehicle was used in connection with any other
12 criminal acts;

13 (4) Whether the juvenile or felon was the lawful owner of the
14 vehicle in question;

15 (5) If the juvenile or felon is not the lawful owner of the
16 vehicle in question, whether or not the lawful owner knew of the unlawful act
17 being committed which gives rise to the forfeiture penalty; and

18 (6) Any other factors the circuit court ~~or the juvenile division~~
19 ~~of chancery court~~ deems relevant.

20 (i) The final order of forfeiture by the circuit court ~~or the juvenile~~
21 ~~division of chancery court~~ shall perfect in the law enforcement agency right,
22 title, and interest in and to such property and shall relate back to the date
23 of the seizure.

24 (j) Physical seizure of property shall not be necessary in order to
25 allege in a petition under this section that property is forfeitable.

26 (k) Upon filing the petition, the prosecuting attorney for the
27 judicial district may also seek such protective orders as are necessary to
28 prevent the transfer, encumbrance, or other disposal of any property named in
29 the petition.

30 (l) The law enforcement agency to which the property is forfeited
31 shall:

32 (1) Destroy all forfeited firearms;

33 (2)(A) Sell the motor vehicle in accordance with subsection (m)
34 of this section; or

35 (B) If the motor vehicle is not subject to a lien which
36 has been preserved by the circuit court ~~or the juvenile division of chancery~~

1 ~~court~~, retain the motor vehicle for official use.

2 (m)(1) If a law enforcement agency desires to sell a forfeited motor
3 vehicle, the law enforcement agency shall first cause notice of the sale to
4 be made by publication at least ~~twice~~ two (2) times a week for two (2)
5 consecutive weeks in a newspaper having general circulation in the county and
6 by sending a copy of the notice of the sale by certified mail, return receipt
7 requested, to each person having ownership of, or a security interest in, the
8 property or in the manner provided in Rule 4 of the Arkansas Rules of Civil
9 Procedure, if:

10 (A) The property is of a type for which title or
11 registration is required by law;

12 (B) The owner of the property is known in fact to the law
13 enforcement agency at the time of seizure; or

14 (C) The property is subject to a security interest
15 perfected in accordance with the Uniform Commercial Code, § 4-1-101 et seq.

16 (2) The notice of the sale shall include the time, place, and
17 conditions of the sale and a description of the property to be sold.

18 (3) The property shall then be disposed of at public auction to
19 the highest bidder for cash without appraisal.

20 (n) The proceeds of any sale and any moneys forfeited shall be
21 applied:

22 (1) To payment of the balance due on any lien preserved by the
23 circuit court ~~or the juvenile division of chancery court~~ in the forfeiture
24 proceedings;

25 (2) To payment of the cost incurred by the seizing agency in
26 connection with the storage, maintenance, security, and forfeiture of the
27 property;

28 (3) To payment of the costs incurred by the prosecuting attorney
29 or attorney for the law enforcement agency, approved by the prosecuting
30 attorney, to which the property is forfeited; and

31 (4) To payment of costs incurred by the circuit court ~~juvenile~~
32 ~~division of chancery court~~.

33 (o) The remaining proceeds or moneys shall be deposited into a special
34 county fund to be titled the "Juvenile Crime Prevention Fund", and the moneys
35 in that fund shall be used solely for making grants to community-based
36 nonprofit organizations which work with juvenile crime prevention and

1 rehabilitation.

2

3 SECTION 261. Arkansas Code § 7-6-103 is amended to read as follows:

4 7-6-103. Campaign participation by judges - Penalty.

5 (a) It shall be unlawful for any judge of the ~~municipal district~~, or
6 circuit, ~~or chancery~~ courts and any Justice of the Supreme Court or Court of
7 Appeals to participate in the campaign of any candidate for office at any
8 election, other than his or her own.

9 (b) The word "participation", as used in this section, shall mean the
10 managing of another's campaign or any solicitation on his or her behalf.

11 (c) Participation shall be deemed to be misfeasance and malfeasance in
12 office and shall subject the judge to impeachment therefor.

13

14 SECTION 262. Arkansas Code § 16-21-108 is amended to read as follows:

15 16-21-108. Child support enforcement - Participation in federal
16 programs - Collection and assessment of costs.

17 (a) The prosecuting attorneys of the several judicial districts in the
18 State of Arkansas shall be designated as local units of government for the
19 express purpose of permitting contracting with the Department of Finance and
20 Administration for the provision of legal services under Part D of Title IV
21 of the Social Security Act of 1935, as delegated to the states in 1975.

22 (b) All collections resulting from such a program shall be placed in a
23 special account for each county, namely a child support enforcement account,
24 and distributed in keeping with the requirements of Public Law 93-647 and
25 rules and regulations promulgated by the Department of Finance and
26 Administration.

27 (c)(1) In all cases ~~wherein any trial court, which shall, for the~~
28 ~~purposes of this section, mean circuit or chancery courts~~ when any circuit
29 court, shall levy a fine or forfeiture as a result of an appearance by the
30 prosecutor or his or her deputy, the fine or forfeiture shall be deposited
31 directly with the county treasurer, who shall enter the exact amount in a
32 separate account and deposit the funds into the prosecuting attorney's fund.

33 (2) The county treasurer of those counties comprising the Sixth
34 Judicial District shall account for the prosecuting attorney's fund on a
35 separate ledger sheet and shall provide a monthly statement to the
36 prosecuting attorney of the district, itemizing the total by amount of fines,

1 fees, forfeitures, and costs assessed for the month.

2 (d)(1) In each case in which the prosecuting attorney shall make an
3 appearance and the defendant is judged guilty, the court shall assess the
4 defendant costs, which shall be paid directly to the prosecuting attorney's
5 fund.

6 (2) The prosecuting attorney shall enforce the provisions of
7 this section by action to compel assessment of costs, where necessary.

8 (e)(1) The prosecuting attorney of the Sixth Judicial District shall
9 submit a proposed budget to the quorum courts of the counties comprising the
10 Sixth Judicial District for their advice and counsel.

11 (2) The quorum court shall then make advisory recommendations to
12 both houses of the General Assembly concerning the prosecuting attorney's
13 proposed budget.

14

15 SECTION 263. Arkansas Code § 16-43-210 is amended to read as follows:

16 16-43-210. Criminal proceedings - Attendance by witness in several
17 criminal cases.

18 A witness subpoenaed to attend before any circuit court in more than
19 one (1) criminal case at the same time ~~or before a justice of the peace at~~
20 ~~the same time~~ shall be allowed pay, when the costs are paid by the county, in
21 only one (1) case and only for the actual number of days he or she is in
22 attendance, regardless of the number of cases in which he or she is summoned
23 or called upon to testify.

24

25 SECTION 264. Arkansas Code § 16-43-801 is amended to read as follows:

26 16-43-801. Witness fees generally.

27 Witnesses shall be allowed compensation as follows:

28 (1) For attendance before any circuit court, arbitration,
29 auditor, commissioner, or other persons in civil cases, five dollars (\$5.00)
30 per day; and

31 (2) For attendance in criminal cases, five dollars (\$5.00) per
32 ~~day;~~ day.

33 ~~(3) For attendance before a justice of the peace, fifty cents~~
34 ~~(50¢).~~

35

36 SECTION 265. Arkansas Code § 16-80-103 is amended to read as follows:

1 16-80-103. Disposition of stolen property.

2 (a) All property obtained by ~~larceny~~ theft, robbery, or burglary shall
3 be restored to the owner, and no sale, whether in good faith on the part of
4 the purchaser or not, shall divest the owner of his or her right to the
5 property.

6 (b) Any person losing property or any valuable thing by ~~larceny~~ theft,
7 robbery, or burglary may maintain his or her action not only against the
8 felon but against any person whatsoever in whose hands or possession the
9 property or valuable thing may be found.

10 (c) When property alleged to have been stolen comes into the
11 possession of any sheriff, constable, law enforcement officer, or other
12 person authorized to perform the duties of the officer, he or she shall hold
13 the property subject to the order of the officer authorized pursuant to this
14 section to direct the disposition thereof.

15 (d) Upon receiving satisfactory evidence of the ownership of the
16 property, the judge or magistrate who shall take the examination of the
17 person accused of stealing the property may order the property to be
18 delivered to the owner, on his or her paying the reasonable and necessary
19 expenses incurred in the preservation of the property, to be certified by the
20 judge or magistrate, which order shall entitle the owner to demand and
21 receive the property.

22 (e) If stolen property comes into the hands of a ~~justice of the peace~~
23 ~~or other~~ judge or magistrate, upon satisfactory proof of the ownership
24 thereof, it shall be delivered to the owner, on the payment of the necessary
25 expenses incurred in the preservation thereof, to be certified by the judge
26 or magistrate.

27 (f) If the property stolen has not been delivered to the owner
28 thereof, the court before which a conviction shall be had for stealing the
29 property may, on proof of the ownership, order the property to be restored to
30 the owner, on payment of the expenses incurred in the preservation thereof.

31 (g) If stolen property shall not be claimed by the owner within six
32 (6) months from the time any person may have been convicted for stealing the
33 property, the ~~court~~ judge or magistrate authorized by the preceding
34 provisions to order a restoration may order the property to be sold. The
35 proceeds of the sale, after payment of the expenses of the preservation and
36 sale of the property, shall be paid into the county treasury for the use of

1 the county.

2 (h)(1) If the thing stolen is a living animal, or property of a
3 perishable nature, the ~~court~~ judge or magistrate authorized to order a
4 restitution may order a sale thereof, and the proceeds shall be applied in
5 the same manner as otherwise directed in this section with respect to stolen
6 property.

7 (2) In all cases of sale as specified in subdivision (h)(1) of
8 this section a particular description of the property shall be made out in
9 writing and filed with the ~~court~~ judge or magistrate making the order of
10 sale, so that the owner may be enabled to identify the property if he or she
11 shall claim the proceeds within the time allowed for making his or her claim.
12

13 SECTION 266. Arkansas Code §§ 16-81-103 and 16-81-104 are amended to
14 read as follows:

15 16-81-103. Power of judge or magistrate to summon, examine, and issue
16 warrant for arrest.

17 When a judge or magistrate is satisfied that a felony has been
18 committed, he or she shall have power to summon before him or her any persons
19 he or she may think proper and examine them on oath concerning it to enable
20 him or her to ascertain the offender and to issue a warrant for his or her
21 arrest.

22

23 16-81-104. Warrant of arrest generally.

24 (a)(1) A warrant of arrest may be issued by ~~the following officers,~~
25 ~~who are called magistrates in this code: Judges of city or police courts,~~
26 ~~mayors, and justices of the peace~~ any circuit, district, or city judge or
27 magistrate. A warrant of arrest may be executed by ~~the following officers,~~
28 ~~who are called peace officers in this code: Sheriffs, constables, coroners,~~
29 ~~jailers, marshals, and police officers~~ any law enforcement officer.

30 (2) It shall be the duty of a judge or magistrate to issue a
31 warrant for the arrest of a person charged with the commission of a public
32 offense when, from his or her personal knowledge or from information given
33 him or her on oath, he or she shall be satisfied that there are reasonable
34 grounds for believing the charge.

35 (3) The prosecuting attorney of every district in this state
36 shall have authority, whenever he or she believes any person has committed a

1 crime in any county in the district for which he or she is elected, to file
2 before any ~~justice of the peace~~ circuit, district, or city judge or
3 magistrate within the county in which he or she believes the crime has been
4 committed a written information, under oath, charging the person in due form
5 of law with the commission of the crime, whereupon the justice shall issue
6 his or her warrant for the arrest of the offender and have him or her brought
7 before him or her to be dealt with according to law.

8 (b) A warrant of arrest shall, in general terms, name or describe the
9 offense charged to have been committed and the county in which it was
10 committed. The warrant shall command the officer to whom it is directed to
11 arrest the person named therein as the offender and bring him or her before
12 some judge or magistrate of the county in which the offense was committed, to
13 be dealt with according to law. It may be substantially in the following
14 form, varying the terms to suit the case:

15
16 "The State of Arkansas.

17
18 To any ~~Sheriff, Constable, Coroner, Jailer, Marshal, or Policeman,~~ law
19 enforcement officer of the State of Arkansas:

20
21 It appearing that there are reasonable grounds for believing that
22 A. B. has committed the offense of larceny in the County of Pulaski, you
23 are therefor commanded, forthwith, to arrest A. B., and bring him before some
24 judge or magistrate of Pulaski County, to be dealt with according to law.

25
26 Given under my hand the _____ day of _____, 1920 .

27 C.D.

28 ~~Justice of the Peace for Pulaski County~~ Judge or Magistrate,
29

30 Summon as witnesses E. F. and J. K."
31

32 SECTION 267. Arkansas Code § 16-81-106 is amended to read as follows:
33 16-81-106. Authority to arrest.

34 (a) An arrest may be made by a certified law enforcement officer or by
35 a private person.

36 (b) A certified law enforcement officer may make an arrest:

1 (1) In obedience to a warrant of arrest delivered to him or her;
2 and

3 (2)(A) Without a warrant, where a public offense is committed in
4 his or her presence, or where he or she has reasonable grounds for believing
5 that the person arrested has committed a felony.

6 (B) In addition to any other warrantless arrest authority
7 granted by law or court rule, a certified law enforcement officer may arrest
8 a person for a misdemeanor without a warrant if the officer has probable
9 cause to believe that the person has committed battery upon another person
10 and the officer finds evidence of bodily harm, and the officer reasonably
11 believes that there is danger of violence unless the person alleged to have
12 committed the battery is arrested without delay.

13 (c)(1) A certified law enforcement officer who is outside his or her
14 jurisdiction may arrest, without warrant, a person who commits an offense
15 within the officer's presence or view, if the offense is a felony or a
16 misdemeanor.

17 (2)(A) A certified law enforcement officer making an arrest under
18 subdivision (c)(1) of this section shall, as soon as practicable after making
19 the arrest, notify the law enforcement agency having jurisdiction where the
20 arrest was made.

21 (B) The law enforcement agency shall then take custody of
22 the person committing the offense and take the person before a judge or
23 magistrate.

24 (3) Statewide arrest powers for certified law enforcement
25 officers will only be in effect when the officer is working outside his or
26 her jurisdiction at the request of or with the permission of the municipal or
27 county law enforcement agency having jurisdiction in the locale where the
28 officer is assisting or working by request.

29 (4) Any law enforcement agency exercising statewide arrest
30 powers under this section must have a written policy on file regulating the
31 actions of its employees relevant to law enforcement activities outside its
32 jurisdiction.

33 (d) A private person may make an arrest where he or she has reasonable
34 grounds for believing that the person arrested has committed a felony.

35 (e) A magistrate, or any judge, may orally order a certified law
36 enforcement officer or private person to arrest anyone committing a public

1 offense in the magistrate's or judge's presence, which order shall authorize
2 the arrest.

3 (f) For purposes of this section, the term "certified law enforcement
4 officer" includes full-time wildlife officers of the Arkansas State Game and
5 Fish Commission so long as they shall not exercise their authority to the
6 extent that any federal funds would be jeopardized.

7 (g) The following persons employed as full-time law enforcement
8 officers by the federal, state, county, or municipal government, who are
9 empowered to effect an arrest with or without warrant for violations of the
10 United States Code and who are authorized to carry firearms in the
11 performance of their duties, shall be empowered to act as officers for the
12 arrest of offenders against the laws of this state and shall enjoy the same
13 immunity, if any, to the same extent and under the same circumstances as
14 certified state law enforcement officers:

- 15 (1) Federal Bureau of Investigation special agents;
- 16 (2) United States Secret Service special agents;
- 17 (3) Immigration and Naturalization Service special agents,
18 investigators, and patrol officers;
- 19 (4) United States Marshals Service deputies;
- 20 (5) Drug Enforcement Administration special agents;
- 21 (6) United States postal inspectors;
- 22 (7) United States Customs Service special agents, inspectors,
23 and patrol officers;
- 24 (8) United States General Services Administration special
25 agents;
- 26 (9) United States Department of Agriculture special agents;
- 27 (10) Bureau of Alcohol, Tobacco, and Firearms special agents;
- 28 (11) Internal Revenue Service special agents and inspectors;
- 29 (12) Certified law enforcement officers of the Department of the
30 Interior, National Park Service, and the United States Fish and Wildlife
31 Service;
- 32 (13) Members of federal, state, county, municipal, and
33 prosecuting attorneys' drug task forces; and
- 34 (14) Certified law enforcement officers of the United States
35 Department of Agriculture, Forest Service.

36 (h) Pursuant to Article 1.124 of the Texas Code of Criminal Procedure,

1 any certified law enforcement officer of the State of Arkansas or law
2 enforcement officer as is specified in subsection (g) of this section shall
3 be authorized to act as a law enforcement officer in the State of Texas with
4 the same power, duties, and immunities of a peace officer of the State of
5 Texas who is acting in the discharge of an official duty:

6 (1) During a time in which:

7 (A)(i) The law enforcement officer from the State of
8 Arkansas is transporting an inmate or criminal defendant from a county in
9 Arkansas that is on the border of Texas to a hospital or other medical
10 facility in a county in Texas that is on the border between the two (2)
11 states.

12 (ii) Transportation to such a facility shall be for
13 purposes including, but not limited to, evidentiary testing of said inmate or
14 defendant as is authorized pursuant to laws of the State of Arkansas, or for
15 medical treatment; or

16 (B) The law enforcement officer from the State of Arkansas
17 is returning the inmate or defendant from the hospital or facility in Texas
18 to an adjoining county in Arkansas; and

19 (2) To the extent necessary to:

20 (A) Maintain custody of the inmate or defendant while
21 transporting the inmate or defendant; or

22 (B) Retain custody of the inmate or defendant if the
23 inmate or defendant escapes while being transported.

24
25 SECTION 268. Arkansas Code §§ 16-81-109 and 16-81-110 are amended to
26 read as follows:

27 16-81-109. Bail.

28 (a)(1) When any sheriff or other law enforcement officer makes an
29 arrest, he or she is authorized to take and approve bail in the manner
30 provided by law wherever he makes the arrest.

31 (2) If the offense charged is a misdemeanor, the person arrested
32 may immediately give bail for appearing, on a day to be named in the bail
33 bond, before the judge or magistrate who issued the warrant or before the
34 court having jurisdiction to try the offense. The sheriff or other officer
35 making the arrest may be authorized by the ~~justice~~ judge or magistrate
36 issuing the warrant to take the bail by an endorsement made on the warrant to

1 that effect.

2 (b)(1) If the defendant gives bail for his or her appearance before
3 the judge or magistrate for an examination of the charge, as provided in
4 subsection (a) of this section, the sheriff or officer taking the bail shall
5 fix the day of the defendant's appearance, ~~which shall not exceed five (5)~~
6 ~~days from the day of arrest, unless the arrest is made in a different county~~
7 ~~from that in which the offense was committed, in which case there may be one~~
8 ~~(1) day added for every twenty (20) miles of distance from the place of~~
9 ~~arrest to the county in which the offense is charged to have been committed~~
10 appearance.

11 (2) A deviation from the provisions of subdivision (b)(1) of
12 this section shall not, however, render the bail bond invalid.

13

14 16-81-110. Return on the warrant.

15 (a)(1) The sheriff or officer who has executed a warrant of arrest
16 shall make a written return on the warrant of the time and manner of
17 executing it and deliver the warrant to the judge or magistrate before whom
18 the defendant is brought.

19 (2) If bail is given, as provided in § 16-81-109(a)(2), the
20 officer shall deliver the warrant and bail bond to the judge or magistrate
21 before whom, or to the clerk of the court in which, the defendant is bound by
22 the bail bond to appear.

23 (b) If the arrest is made in a different county from that in which the
24 offense is charged to have been committed, and bail is given, the sheriff or
25 officer may transmit the warrant and bail bond by mail to the person to whom,
26 by subsection (a) of this section, he or she is required to deliver them.

27

28 SECTION 269. Arkansas Code § 16-81-302 is amended to read as follows:

29 16-81-302. Disposition of prisoner.

30 If such an arrest is made in obedience to a warrant, the disposition of
31 the prisoner shall be as in other cases of arrest under a warrant; if the
32 arrest is without a warrant, the prisoner shall without unnecessary delay be
33 taken before a ~~municipal court or a justice of the peace or other~~ judge or
34 ~~magistrate of the county wherein such an arrest was made, and such court~~
35 ~~shall admit each person to bail, if the offense is bailable, by taking~~
36 ~~security by way of recognizance for the appearance of the prisoner before the~~

1 ~~court having jurisdiction of such criminal offense.~~

2

3 SECTION 270. Arkansas Code § 16-84-102 is amended to read as follows:

4 16-84-102. Persons authorized to take bail.

5 (a) The following may take bail:

6 (1) A ~~competent court,~~ judge, magistrate, or clerk of the ~~court,~~
7 ~~or magistrate~~ court;

8 (2) A sheriff or deputy sheriff with respect to any person
9 committed to the common jail of the county;

10 (3) Any ~~police~~ law enforcement officer designated by a municipal
11 police department with respect to any person committed to a municipal jail;
12 and

13 (4) A law enforcement officer making an arrest as authorized
14 under § 16-81-109.

15 (b) A constable shall not take bail.

16

17 SECTION 271. Arkansas Code §§ 16-84-109 and 16-84-110 are amended to
18 read as follows:

19 16-84-109. Irregularity of bail bond or recognizance.

20 (a) No bail bond or recognizance shall be deemed to be invalid by
21 reason of any variance between its stipulations and the provisions of this
22 chapter, or of the failure of the judge or magistrate or officer to transmit
23 or deliver the bail bond or recognizance at the times provided in this
24 subchapter, or of any other irregularity, so that it is made to appear that
25 the defendant was legally in custody, charged with the public offense, and
26 that he or she was discharged therefrom by reason of the giving of the bond
27 or recognizance, and that it can be ascertained from the bond or recognizance
28 that the surety undertook that the defendant should appear before a judge or
29 magistrate for the trial thereof.

30 (b)(1) If no day is fixed for the appearance, or an impossible day, or
31 a day in vacation, the bond or recognizance, if for his or her appearance
32 before a judge or magistrate, shall be considered as binding the defendant so
33 to appear and surrender himself or herself into custody for an examination of
34 the charge in twenty (20) days from the time of his or her giving the bond or
35 recognizance.

36 (2) The bond or recognizance, if for his or her appearance for

1 trial in court, shall be considered as binding the defendant to appear and
2 surrender himself or herself into custody on the first day of the next term
3 of the court which shall commence more than ten (10) days after the giving of
4 the bond or recognizance.

5
6 16-84-110. Bail before conviction.

7 Before conviction, the defendant may be admitted to bail:

8 (1) For his or her appearance before a judge or magistrate for
9 an examination of the charge, where the offense charged is a misdemeanor;

10 (2) For his or her appearance in the court to which he or she is
11 sent for trial;

12 (3) For his or her appearance to answer an indictment which has
13 been found against him or her; or

14 (4) For his or her appearance in a ~~penal~~ criminal action.

15
16 SECTION 272. Arkansas Code § 16-84-113 is amended to read as follows:

17 16-84-113. Application for bail.

18 (a) If the defendant is committed to jail, and the application for
19 bail is made to a ~~magistrate, or judge of the circuit court~~ judge or
20 magistrate during vacation, it must be by written petition, signed by the
21 defendant or his or her counsel, briefly stating the offense for which he or
22 she is committed and naming the persons offered as surety.

23 (b) In all other cases, the application may be made orally to the
24 ~~court~~ judge or magistrate.

25
26 SECTION 273. Arkansas Code § 16-85-512 is amended to read as follows:

27 16-85-512. Persons permitted to be present.

28 No persons except the prosecuting attorney, court reporter, and the
29 witnesses under examination are permitted to be present while the grand jury
30 is examining a charge, and no person whatever shall be present while the
31 grand jury is deliberating or voting on a charge.

32
33 SECTION 274. Arkansas Code § 16-85-701 is amended to read as follows:

34 16-85-701. Definition.

35 As used in this code, unless the context otherwise requires, an
36 "arraignment" is the reading of the indictment ~~by the clerk~~ to the defendant

1 and asking him or her if he or she pleads guilty or not guilty to the
2 indictment.

3
4 SECTION 275. Arkansas Code § 16-85-713 is amended to read as follows:
5 16-85-713. Leave of court to enter nolle prosequi.

6 No prosecuting attorney shall enter a nolle prosequi on any indictment
7 or in any other way discontinue or abandon the indictment without the leave
8 of the court in which the indictment is pending and without being first
9 entered on the ~~minutes~~ docket.

10
11 SECTION 276. Arkansas Code § 16-91-101 is amended to read as follows:
12 16-91-101. Right generally.

13 (a) Any person convicted of a misdemeanor or a felony by virtue of a
14 trial in any circuit court of this state has the right of appeal to the
15 Supreme Court of Arkansas.

16 (b) An appeal may be taken jointly by codefendants or by just one (1)
17 defendant although he or she may have been jointly charged and convicted with
18 another defendant. One (1) appeal may be taken where a defendant has been
19 found guilty of one (1) or more charges contained in any one (1) felony
20 information or indictment.

21 ~~(c) There shall be no appeal from a plea of guilty or nolo contendere.~~

22
23 SECTION 277. Arkansas Code § 16-93-210 is amended to read as follows:
24 16-93-210. Annual report on parole applications and outcome.

25 (a)(1) Beginning July 31, 2003, and on July 31 of each year
26 thereafter, the Post Prison Transfer Board shall submit an annual report to
27 the Legislative Council and the Commission on Disparity in Sentencing showing
28 the number of persons who make application for parole and those who are
29 granted or denied parole during the fiscal year for each criminal offense
30 classification.

31 (2) The report shall include a breakdown by race of all persons
32 sentenced in each criminal offense classification.

33 (b) The board shall cooperate with and upon request make presentations
34 and provide various reports, to the extent the board's budget will allow, to
35 the Legislative Council ~~and the Commission on Disparity in Sentencing~~
36 concerning board policy and criteria on discretionary offender programs and

1 services.

2

3 SECTION 278. Arkansas Code § 16-93-304 is amended to read as follows:

4 16-93-304. Arkansas Crime Information Center.

5 (a) All ~~municipal~~ district court judges and circuit court judges shall
6 immediately report to the Arkansas Crime Information Center, in the form
7 prescribed by the Arkansas Crime Information Center, all probations of
8 criminal defendants under §§ 16-93-301 - 16-93-303.

9 (b) Prior to granting probation to a criminal defendant under §§ 16-
10 93-301 - 16-93-303, the court shall query the Arkansas Crime Information
11 Center to determine whether the criminal defendant has previously been
12 granted probation under the provisions of §§ 16-93-301 - 16-93-303.

13 (c) If the Arkansas Crime Information Center determines that an
14 individual has utilized §§ 16-93-301 - 16-93-303 more than once, the center
15 shall notify the last sentencing judge of that fact.

16

17 SECTION 279. Arkansas Code § 16-96-104 is amended to read as follows:

18 16-96-104. Pleadings and indictments.

19 (a) No written information or pleadings are required in prosecutions
20 in which an indictment is not required.

21 (b) No indictment shall be necessary in prosecutions for violations of
22 the bylaws or ordinances of a city or town, nor in other prosecutions in
23 ~~police or~~ city courts.

24

25 SECTION 280. Arkansas Code § 16-96-503 is amended to read as follows:

26 16-96-503. Jurisdiction.

27 The court shall have appellate jurisdiction over the judgments of
28 ~~justices' courts, and of police and~~ city courts, in their respective
29 counties, without regard to the amount in controversy.

30

31 SECTION 281. Arkansas Code § 16-96-508 is amended to read as follows:

32 16-96-508. Judgment on default.

33 If the appellant shall fail to appear in the circuit court when the
34 case is set for trial, or if, in the event that the ~~justice or other~~ judge or
35 magistrate who tried the case shall fail to file the transcript and papers as
36 provided in this subchapter, and the appellant shall fail to appear and move

1 the court for an order to compel the ~~justice~~ judge or magistrate to so file
2 within the first three (3) days of the first term of the circuit court
3 beginning more than ten (10) days after the appeal was prayed, then the
4 circuit court may, unless good cause is shown to the contrary, affirm the
5 judgment ~~of the justice, police, or city court~~ and enter judgment against the
6 appellant for the same fine or penalty that was imposed in the ~~inferior~~ court
7 of limited jurisdiction, with costs. This judgment shall have the same force
8 and effect as other judgments of the circuit court in cases of convictions or
9 indictments for misdemeanors.

10
11 SECTION 282. Arkansas Code § 16-112-109 is amended to read as follows:
12 16-112-109. Information relating to commitment.

13 (a) When the party for whose relief a writ of habeas corpus has been
14 issued shall stand committed for any criminal or supposed criminal matter, it
15 shall be the duty of the officer or person upon whom the writ is served to
16 bring with the writ all and every examination and information in his or her
17 hands, possession, custody, or charge, relating to the commitment.

18 (b) If no examination shall accompany the commitment, nor be in the
19 possession of the officer having the prisoner in custody, the officer shall
20 exhibit the habeas corpus, when served on him or her, to the judge or
21 magistrate by whom the prisoner was committed, or the clerk of the court, if
22 the papers are in his or her office. It shall be the duty of the judge,
23 magistrate or clerk to deliver to the officer having the custody of the
24 prisoner the examinations and proofs relating to the offense charged, to be
25 returned by the officer with the writ.

26 (c) If no examination has been filed with the commitment or in the
27 office of the clerk and none is produced by the committing judge or
28 magistrate upon the exhibition of the writ of habeas corpus to him or her,
29 as provided in subsection (b) of this section, the judge or magistrate shall
30 appear in person at the time and place to which the writ is returnable and,
31 if he or she fails to do so, may be proceeded against by attachment.

32
33 SECTION 283. Arkansas Code § 16-84-203 is amended to read as follows:
34 16-84-203. Certain absences excused.

35 (a) No forfeiture of any appearance or bail bond shall be rendered in
36 any case where a sworn statement of a licensed court-appointed physician is

1 furnished the court showing that the principal in the bond is prevented from
2 attending by some physical or mental disability, or where a sworn affidavit
3 of the jailer, warden, or other responsible officer of a jail or ~~penitentiary~~
4 correctional facility in which the principal is being detained shall be
5 furnished the court, or a sworn affidavit of any officer in charge is
6 furnished the court showing that the principal in the bond is prevented from
7 attending due to the fact that he or she is being detained by a force
8 claiming to act under the authority of the federal government which neither
9 the state nor the surety could control.

10 (b) The appearance or bail bond shall remain in full force and effect
11 until the principal is physically or mentally able to appear or until a
12 detainer against the principal is filed with the detaining authority.

13
14 SECTION 284. Arkansas Code § 16-91-111 is amended to read as follows:

15 16-91-111. Appeal after confinement.

16 (a) If a judgment of confinement in the ~~penitentiary~~ Department of
17 Correction has been executed before the certificate of appeal was delivered
18 to the sheriff whose duty it was to execute the judgment, the defendant shall
19 remain in the ~~penitentiary~~ Department of Correction during the pendency of
20 the appeal, unless discharged by the expiration of his term of confinement or
21 by pardon.

22 (b) Upon a reversal, if a new trial is ordered, the defendant shall be
23 removed from the ~~penitentiary~~ Department of Correction to the county jail
24 from which he was brought by the sheriff of the county.

25
26 SECTION 285. Arkansas Code § 16-91-116 is amended to read as follows:

27 16-91-116. Proceedings on reversal and new trial.

28 (a) Upon a mandate of reversal ordering a new trial being filed in the
29 clerk's office of the circuit court in which the judgment of confinement in
30 the ~~penitentiary~~ Department of Correction was rendered and executed, the
31 clerk shall deliver to the sheriff a copy of the mandate and precept,
32 authorizing and commanding ~~him~~ the sheriff to bring the defendant from the
33 ~~penitentiary~~ Department of Correction to the county jail, which shall be
34 obeyed by the sheriff and keeper of the ~~penitentiary~~ Department of
35 Correction.

36 (b) If the defendant, upon the new trial, is again convicted, the

1 period of his or her former confinement in the ~~penitentiary~~ Department of
2 Correction shall be deducted by the court from the period of confinement
3 fixed in the last verdict of conviction.

4
5 SECTION 286. Arkansas Code § 16-93-101 is amended to read as follows:
6 16-93-101. Definitions.

7 As used in this act, unless the context otherwise requires:

8 (1) "Probation" means a procedure under which a defendant, found
9 guilty upon verdict or plea, is released by the court without imprisonment,
10 subject to conditions imposed by the court and subject to the supervision of
11 the ~~Board of Pardons and Paroles~~ Department of Community Correction, but only
12 if the supervision is requested in writing by the court; and

13 (2) "Parole" means the release of the prisoner into the
14 community by the ~~Board of Pardons and Paroles~~ Post Prison Transfer Board
15 prior to the expiration of his or her term, subject to conditions imposed by
16 the board and to ~~its supervision~~ the supervision of the Department of
17 Community Correction. When a court or other authority has filed a warrant
18 against the prisoner, the board may release him or her on parole to answer
19 the warrant of the court or authority.

20
21 SECTION 287. Arkansas Code §§ 16-93-1201 – 16-93-1206 are amended to
22 read as follows:

23 16-93-1201. Findings and determinations.

24 (a) The State of Arkansas hereby finds that the cost of incarcerating
25 the ever-increasing numbers of offenders in traditional penitentiaries is
26 skyrocketing, bringing added fiscal pressures on state government, and that
27 some inmates can be effectively punished, with little risk to the public, in
28 a more affordable manner through the use of community ~~punishment~~ correction
29 programs and nontraditional facilities.

30 (b) As a result of the rising cost of traditional incarceration, the
31 state finds that the purpose of corrections in Arkansas is twofold:

32 (1)(A) "Institutions", defined as traditional prison beds, are
33 charged with the appropriate incapacitation of high risk offenders.

34 ~~(A)(B)~~ "Incapacitation" involves traditional aspects of
35 incarceration coupled with highly supervised community punishment when
36 appropriate.

1 ~~(B)~~(C) "High risk" is defined as those convicted of the
2 most serious offenses, those who have longer criminal histories, and those
3 who have repeatedly failed to comply with conditions imposed under less
4 restrictive sanctions.

5 (2) "Community correction", defined as both nontraditional
6 ~~punishment-correction~~ centers and nonresidential community ~~punishments~~
7 correction, including supervision on probation, parole, and transfer, is
8 charged with the provision of ~~punishment~~ correction focused on promoting
9 offender accountability and the supervision of offenders at appropriate
10 levels to promote public safety+; and

11 (c) Furthermore, the state determines that services designed to
12 address offender needs must be integrated into the framework of both
13 institutions and community ~~punishment~~ correction programs and must be
14 balanced with supervision and ~~punishment~~ correction such that the community
15 is repaid for the offense, public safety is promoted through supervision, and
16 the offender is assisted in becoming a law-abiding member of society.

17
18 16-93-1202. Definitions.

19 (a) "Board" means the Board of Corrections.

20 (b) "Community ~~punishment~~ correction" means:

21 (1) Probation, a judicially imposed criminal sanction permitting
22 varying levels of supervision of eligible offenders in the community;

23 (2) Economic sanctions programs, including an active organized
24 collection of fees, fines, restitution, day fines, day reporting centers, and
25 penalties attached for nonpayment of fines;

26 (3) Home detention programs, ranging from curfew programs to
27 house arrest with and without electronic monitoring;

28 (4) Community service programs, including both supervised and
29 unsupervised work assignments and projects such that offenders provide
30 substantial labor benefit to the community;

31 (5) Work-release programs, including residential and
32 nonresidential forms of labor, with salary, in the community;

33 (6) Restitution programs, an organized collection and
34 dissemination of restitution by a designated entity within the community
35 punishment range of services, including, when necessary, the use of
36 restitution centers such that the offender is held accountable and the victim

1 receives restitution ordered by the court in a timely fashion;

2 (7)(A) ~~Regional punishment~~ Community correction facilities,
3 multipurpose facilities encompassing security, punishment, and services such
4 that offenders can be housed therein when necessary but can also be assigned
5 to or access ~~punishment~~ correction programs and services which are housed
6 there.

7 (B) Included therein are revocation centers, restitution
8 centers, work-release centers, and community ~~punishment~~ correction centers;

9 (8) Boot camps, highly regimented programs encompassing strict
10 discipline, education, treatment, and counseling designed to have the
11 greatest positive impact on the offender in the shortest period of time;

12 (9) Drug and alcohol treatment services, including both
13 inpatient and outpatient drug and alcohol abuse treatment and counseling
14 provided by qualified community ~~punishment~~ correction service provider
15 programs for correctional clients;

16 (10) Educational programs, including programs focused on the
17 acquisition of basic learning skills, general educational developmental
18 preparation, literacy training, and other applicable areas of education that
19 are of value to correctional clients;

20 (11) Vocational programs, focused on the learning of a
21 marketable skill by correctional clients utilizing qualified vocational and
22 technical community ~~punishment~~ correction service provider programs whenever
23 possible;

24 (12) Job skills programs, focused on the acquisition of basic
25 job skills, especially those related to how to get a job and how to keep a
26 job;

27 (13) Mental health treatment services, including both inpatient
28 and outpatient mental health, family, and psychological counseling and
29 treatment provided by qualified community ~~punishment~~ correction service
30 provider programs for correctional clients;

31 (14) Parole, an administrative condition permitting state
32 supervision of eligible offenders sentenced to state correctional facilities
33 and released there from to community ~~punishment~~ correction programs or
34 supervision;

35 (15) Post prison supervision, an administrative condition
36 permitting state supervision of offenders sentenced to state correctional

1 facilities and transferred there from to community ~~punishment~~ correction
2 programs or community supervision; and

3 (16) Pretrial programs including the supervision/monitoring of
4 certain defendants while awaiting sentencing or disposition by a court.

5 (c) "Community ~~punishment~~ correction service provider program" means a
6 public or private organization which provides treatment, guidance, training,
7 support, or other rehabilitative services to individual offenders, offender
8 groups, and their families in such areas as health, education, vocational
9 training, special education, social services, psychological counseling,
10 alcohol and drug treatment, and other applicable correctional concerns.

11 (d) "Department of Community Correction" means the administrative
12 structure in place to oversee the development and operation of community
13 ~~punishment~~ correction facilities, programs, and services, including probation
14 and parole supervision.

15 (e) "Department of Correction" means the administrative structure in
16 place to oversee the daily operation of secure prison facilities.

17 (f) "Eligibility" or "eligible offender" means any person convicted of
18 a felony who is by law eligible for such sentence and who falls within the
19 population targeted by the General Assembly for inclusion in community
20 punishment facilities or who is otherwise under the supervision of the
21 Department of Community Correction.

22 (g) "Incarceration" means commitment to the Department of Correction.

23 (h) "Supervision" means direct supervision at varying levels of
24 intensity by either probation officers, in the case of sentences to probation
25 with a condition of community ~~punishment~~ correction, or parole and post
26 prison supervision officers, in the case of offenders eligible for release on
27 parole or offenders transferred to community ~~punishment~~ correction or
28 community supervision from the Department of Correction.

29 (i) "Suspended imposition of sentence" means a procedure whereby a
30 defendant who pleads or is found guilty of an offense is released by the
31 court without pronouncement of sentence and without supervision.

32 (j)(1)(A) "Target group" means a group of offenders and offenses
33 determined to be, but not limited to, theft, theft by receiving, hot checks,
34 residential burglary, commercial burglary, failure to appear, fraudulent use
35 of credit cards, criminal mischief, breaking or entering, drug paraphernalia,
36 driving while intoxicated, fourth or subsequent offense, all other Class C or

1 Class D felonies which are not either violent or sexual and which meet the
2 eligibility criteria determined by the General Assembly to have significant
3 impact on the use of correctional resources, Class A and Class B controlled
4 substance felonies, and all other unclassified felonies for which the
5 prescribed limitations on a sentence do not exceed the prescribed limitations
6 for a Class C felony and which are not either violent or sexual.

7 (B) Offenders committing solicitation, attempt, or
8 conspiracy of the substantive offenses listed above are also included in the
9 group.

10 (C) For the purposes of this subsection, "violent or
11 sexual" includes:

12 (i) All offenses against the person codified in
13 chapters 10-14 of Title 5 of this Code; and

14 (ii) Any offense containing as an element of the
15 offense the following:

16 (a) The use of physical force;

17 (b) The use or threatened use of serious
18 physical force;

19 (c) The infliction of physical harm; or

20 (d) The creation of a substantial risk of
21 serious physical harm.

22 (2) Offenders and offenses falling within the target group
23 population may access community ~~punishment~~ correction facilities pursuant to
24 § 16-93-1206 or § 16-93-1208.

25 (k) "Transfer" means an administrative condition permitting transfer
26 of eligible offenders sentenced to traditional state correctional facilities
27 to community ~~punishment~~ correction facilities, programming, and community
28 supervision, provided that only target offenders are eligible for the
29 facilities.

30 (1)(1) "Transfer date" means the earliest date on which an
31 offender is eligible for transfer from the Department of Correction to the
32 Department of Community Correction.

33 (2) Such date may be extended based on disciplinary behavior
34 while under the custody of the Department of Correction.

35 (m) "Trial court" means any court of this state having jurisdiction of
36 an eligible offender and the power to sentence the eligible offender to the

1 included options.

2

3 16-93-1203. Board of Corrections - Powers and duties.

4 The Board of Corrections shall have the following duties and
5 responsibilities with regard to community ~~punishment~~ correction programming:

6 (1) Establish community ~~punishment~~ correction programs to which
7 eligible offenders may be assigned as a condition of probation, sentenced to
8 by the trial court pursuant to this subchapter, paroled to upon release from
9 incarceration, or transferred to after incarceration in the Department of
10 Correction;

11 (2) Notify the trial courts of the state having criminal
12 jurisdiction of the availability of certified and approved community
13 ~~punishment~~ correction programs;

14 (3) Establish standards for the monitoring, auditing, and
15 certification of community ~~punishment~~ correction programs;

16 (4) Establish rules and regulations relating to the operation of
17 community ~~punishment~~ correction programs and the supervision of eligible
18 offenders participating therein;

19 (5) Promote cooperation among the courts and various law
20 enforcement and correctional agencies of this state in the implementation of
21 community ~~punishment~~ correction programs;

22 (6) Direct the departments and other entities involved in the
23 implementation of community ~~punishment~~ correction options in a manner that
24 will promote the safety and welfare of the people of this state;

25 (7) Establish rules, regulations, and procedures which shall be
26 required or deemed appropriate for the implementation and ongoing operation
27 of community ~~punishment~~ correction; and

28 (8) Establish minimum standards of eligibility and certification
29 processes for all community ~~punishment~~ correction programs eligible to
30 receive offenders under this subchapter.

31

32 16-93-1204. Authorization.

33 (a) The Board of Corrections shall implement a correctional plan, to
34 be developed in conjunction with the Arkansas Sentencing Commission, which
35 ensures the efficient use of prison beds, which are becoming scarce
36 resources, through the development and expansion of community ~~punishment~~

1 correction options which will provide supervision, ~~punishment~~ correction, and
2 services to a primary target group of nonviolent offenders who would
3 otherwise have been eligible for and likely to be sentenced to traditional
4 incarceration.

5 (b) The community ~~punishment~~ correction target group shall consist of
6 those offenders who are involved in less serious criminal activity ~~and/or~~ or
7 are nonviolent by nature and crime, or both, even though the offender and
8 offense may be repetitive, those who are technical violators of community
9 supervision, and offenders returning to the community from incarceration who
10 are in need of enhanced supervision options due to the nature of their
11 criminal conviction.

12

13 16-93-1205. Operation and supervision of community ~~punishment~~
14 correction programs.

15 (a) The board shall promulgate policies, rules, and regulations
16 relating to the operation of community ~~punishment~~ correction facilities and
17 programs, the supervision of eligible offenders participating therein, and
18 the termination of that participation, including, but not limited to:

19 (1) The terms, conditions, and qualifications of program
20 eligibility;

21 (2) The time to be spent in specific ~~punishment~~ correction and
22 treatment programs designated as community ~~punishment~~ correction;

23 (3) Receipt of compensation in the form of fees or other
24 available sources from the eligible offender while participating in a
25 community ~~punishment~~ correction program;

26 (4) Allocation of compensation received by an eligible offender
27 while participating in a community ~~punishment~~ correction program, including
28 designation to the Department of Community Correction of a percentage of any
29 compensation received for the purpose of defraying the costs to the
30 Department of Community Correction of establishing and operating community
31 ~~punishment~~ correction programs and the costs of the offender's custody and
32 care;

33 (5) Receipt of compensation from public entities who benefit
34 from the labor of offenders involved in community ~~punishment~~ correction work
35 programs; and

36 (6) Collection of economic sanctions imposed by the court,

1 including, but not limited to, restitution, fines, fees, or other monetary
2 penalties attached to an offender's sentence.

3 (b) The Department of Community Correction shall supervise all
4 eligible offenders participating in any community ~~punishment~~ correction
5 program with the goal of promoting the safety and welfare of the people of
6 the state.

7
8 16-93-1206. Sentencing alternatives.

9 (a)(1) The trial court may require that either a presentence
10 investigation be conducted by either the probation officer or presentence
11 investigation officer assigned to the court or may require that the defense
12 counsel of the person, the prosecuting authority, the probation officer, and
13 other persons whom the trial court believes have knowledge or information
14 relevant to the sentencing of the convicted person submit to the trial court
15 such information in writing for the sentencing phase of the trial.

16 (2) Either the presentence investigation or information gathered
17 by the above-mentioned parties shall be forwarded, with the commitment, to be
18 retained in the offender's file.

19 (b) Upon determination by the court that the offender is an eligible
20 offender and that placement in a community ~~punishment~~ correction program is
21 proper, the court may utilize the following methods of placement:

22 (1)(A) Suspend the imposition of the sentence or place the
23 offender on probation, pursuant to §§ 5-4-104 - 5-4-311.

24 ~~(A)(B)~~ This sentence may be accompanied by assignment to a
25 community ~~punishment~~ correction program for a designated period of time
26 commensurate with the goals of the program assignment and the rules and
27 regulations established by the board for the operation of community
28 ~~punishment~~ correction programs.

29 ~~(B)(C)~~ The trial court shall maintain jurisdiction over
30 the eligible offender sentenced in this manner with supervision outside the
31 confines of the specific programming provided by probation officers assigned
32 to the court;

33 (2)(A) In the event a person sentenced under subdivision (b)(1)
34 of this section violates any terms or conditions of his or her sentence or
35 term of probation, revocation of the sentence or term of probation shall be
36 consistent with the procedures established by law for the revocation of

1 suspended imposition of sentence or probation.

2 (B) Upon revocation, the court of jurisdiction shall
3 determine whether the offender shall remain under the jurisdiction of the
4 court and be assigned to a more restrictive community ~~punishment~~ correction
5 program, facility, or institution for a period of time or whether the
6 offender shall be committed to the Department of Community Correction.

7 (C) If committed to the Department of Correction, the
8 court shall specify if the commitment is for judicial transfer of the
9 offender to the Department of Community Correction or is a regular
10 commitment; and

11 (3)(A) Commit the eligible offender to the custody of the
12 Department of Correction pursuant to this subchapter for judicial transfer to
13 the Department of Community Correction subject to the following:

14 (i) That the sentence imposed provides that the
15 offender shall serve no more than two (2) years of confinement, with credit
16 for meritorious good time, with initial placement in a Department of
17 Community Correction facility; and

18 (ii) That the initial placement in the Department of
19 Community Correction is conditioned upon the offender's continuing
20 eligibility for Department of Community Correction placement and the
21 offender's compliance with all applicable rules and regulations established
22 by the Board of Corrections for community ~~punishment~~ correction programs.

23 (B) Post prison supervision shall accompany and follow
24 programming when appropriate.

25 (c) No offender may be excluded from placement in a community
26 ~~punishment~~ correction program based solely on the offender's inability to
27 speak, read, write, or hear, or to understand English.

28
29 SECTION 288. Arkansas Code §§ 16-93-1208 and 16-93-1209 are amended to
30 read as follows:

31 16-93-1208. Post commitment transfer.

32 (a)(1)(A) Upon commitment of an eligible offender to the Department of
33 Correction, the department will transfer the eligible offender to a community
34 ~~punishment~~ correction program, when he or she reaches his or her transfer
35 date, in accordance with the rules and regulations promulgated by the Board
36 of Corrections and conditions set by the Post Prison Transfer Board.

1 (B) Legal custody of inmates transferred to the Department
2 of Community Correction shall remain with the Department of Correction unless
3 altered by court order.

4 (2)(A) When a sentence is given which is outside the presumptive
5 range set in the sentencing standards and which is not accompanied by written
6 reasons for the departure, an offender may be transferred to community
7 ~~punishment~~ correction or considered for any discretionary release applicable
8 under the law as if he or she had received the presumptive sentence, and the
9 transfer or releasing authority may review, grant, or deny transfer or
10 release based on any eligibility established by the presumptive sentence
11 term.

12 (B) This provision shall apply only to a conviction for
13 the most serious offense in a particular case.

14 (C) In the event that such a conviction is vacated, any
15 concurrent conviction in the same case need not have a written departure.

16 (3) Persons eligible for release from incarceration on parole
17 may be placed in community ~~punishment~~ correction programming while under
18 parole supervision upon the recommendation of such condition by the releasing
19 authority.

20 (b)(1) The Board of Corrections and the Department of Correction are
21 authorized to release medical and psychological data in their possession to a
22 community ~~punishment~~ correction service provider concerning an eligible
23 offender transferred to such community ~~punishment~~ correction program.

24 (2) The community ~~punishment~~ correction service provider shall
25 use any medical or psychological data received from the Department of
26 Correction and the board in compliance with rules concerning the use of such
27 data as adopted by the board.

28
29 16-93-1209. Liability.

30 The Department of Correction, the Board of Corrections, the Department
31 of Community Correction, the Post Prison Transfer Board, and all governmental
32 agencies and units utilizing eligible offenders in community ~~punishment~~
33 correction programs as defined herein shall be immune from liability and suit
34 for damages, and no tort action shall lie against the Department of
35 Correction, the Board of Corrections, the Department of Community Correction,
36 the Post Prison Transfer Board, and any governmental agency or unit or any

1 employee thereof because of any acts of eligible offenders utilized under the
2 provisions of this subchapter.

3
4 SECTION 289. Arkansas Code § 16-93-1302 is amended to read as follows:
5 16-93-1302. Transfer procedures.

6 (a)(1)(A) Inmates under sentence for all felonies except those listed
7 in subsection (b) of this section will be transferred from the Department of
8 Correction to the Department of Community Correction subject to rules and
9 regulations promulgated by the Board of Corrections and conditions set by the
10 Post Prison Transfer Board.

11 (B) This review may be conducted without a hearing when
12 the inmate has not received a major disciplinary report against him or her
13 which resulted in the loss of good time, there has not been a request by a
14 victim to have input on transfer conditions, and there is no indication in
15 the risk/needs assessment review that special conditions need to be placed on
16 the inmate.

17 (2)(A) When one (1) or more of the circumstances in subdivision
18 (a)(1) of this section are present, the Post Prison Transfer Board shall
19 conduct a hearing to determine the appropriateness of the inmate for
20 transfer.

21 (B) The Post Prison Transfer Board has two (2) options:

22 (i) To transfer the individual to the Department of
23 Community Correction accompanied by conditions of such transfer including,
24 but not limited to, supervision levels, programming requirements, and
25 facility placement when appropriate; or

26 (ii) To deny transfer based on a set of established
27 criteria and to accompany such denial with a course of action to be
28 undertaken by the inmate to rectify the Post Prison Transfer Board concerns.

29 (C) Upon completion of the course of action determined by
30 the Post Prison Transfer Board, after final review of the inmate's file to
31 ensure successful completion, the Post Prison Transfer Board shall authorize
32 the inmate's transfer to the Department of Community Correction in accordance
33 with administrative policies and procedures governing such transfer and
34 subject to conditions attached to such transfer.

35 (3) Should an inmate fail to fulfill the course of action
36 outlined by the Post Prison Transfer Board to facilitate transfer to

1 community ~~punishment~~ correction, it shall be the responsibility of such
2 inmate to petition the Post Prison Transfer Board for rehearing.

3 (b)(1) Inmates under sentence for the following Class Y felonies shall
4 be eligible for discretionary transfer to the Department of Community
5 Correction by the Post Prison Transfer Board after having served the time
6 required as set by the Arkansas Sentencing Commission with credit for
7 meritorious good time:

8 (A) Murder in the first degree;

9 (B) Kidnapping;

10 (C) Rape;

11 (D) Aggravated robbery;

12 (E) Causing a catastrophe;

13 (F) Engaging in a continuing criminal enterprise; and

14 (G) The manufacture or delivery of a schedule I or II
15 controlled substance which by aggregate weight including adulterants or
16 diluents is greater than twenty-eight (28) grams.

17 (2)(A) Review of inmates convicted of the enumerated offenses in
18 subdivision (b)(1) of this section shall be based upon policies and
19 procedures adopted by the Post Prison Transfer Board for such review.

20 (B) Such policies and procedures shall include provision
21 for notification of victims, that a hearing shall be held and records kept of
22 such proceedings and that there be a listing of the criteria upon which a
23 denial may be based.

24 (3) All transfers of offenders specified in this subsection
25 shall be issued upon order, duly adopted, of the Post Prison Transfer Board
26 in accord with such policies and procedures.

27 (c)(1) The course of action required by the Post Prison Transfer Board
28 shall not be outside the current resources of the Department of Correction
29 nor the conditions set be outside the current resources of the Department of
30 Community Correction.

31 (2) However, the departments shall strive to accommodate the
32 actions required by the board to the best of their ability.

33 (d) Transfer is not an award of clemency and it shall not be
34 considered as a reduction of sentence or a pardon.

35 (e) Every inmate while on transfer status shall remain in the legal
36 custody of the Department of Correction, under the supervision of the

1 Department of Community Correction, and subject to the orders of the Post
2 Prison Transfer Board.

3 (f) Inmates who are sentenced under the provisions of § 5-4-501(c) or
4 (d) for serious violent felonies or felonies involving violence may be
5 considered eligible for parole or for community ~~punishment~~ correction
6 transfer upon reaching regular parole or transfer eligibility, but only after
7 reaching a minimum age of fifty-five (55) years.

8

9 SECTION 290. Arkansas Code § 5-4-701 is amended to read as follows:
10 5-4-701. Definitions.

11 For purposes of this subchapter:

12 (1) "Child" means a person under sixteen (16) years of age; and

13 (2) "In the presence of a child" means in the physical presence
14 of a child or knowing or having reason to know that a child is present and
15 may see or hear an act of assault, battery, domestic ~~battery~~ battering, or
16 assault on a family member or household member.

17

18 SECTION 291. Arkansas Code § 5-25-101 is amended to read as follows:
19 5-25-101. Definitions.

20 As used in this subtitle, unless the context otherwise requires:

21 (1) "Adult" means any person eighteen (18) years of age or
22 older;

23 (2) "Minor" means any person under eighteen (18) years of age;

24 (3) "Incompetent" means any person unable to care for himself
25 because of physical or mental disease or defect. The status embraced by this
26 definition may or may not exist regardless of any adjudication concerning
27 incompetency;

28 (4) "Sexual intercourse" means penetration, however slight, of a
29 ~~vagina~~ the labia majora by a penis;

30 (5) "Deviate sexual activity" means any act of sexual
31 gratification involving:

32 (A) The penetration, however slight, of the anus or mouth
33 of one person by the penis of another person; or

34 (B) The penetration, however slight, of the ~~vagina~~ labia
35 majora or anus of one person by any body member of or foreign instrument
36 manipulated by another person.

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SECTION 292. Arkansas Code § 5-37-502 is amended to read as follows:

5-37-502. Animals -- Marking, branding, or altering brands.

If any person shall mark, brand, or alter the mark or brand of any animal, ~~the subject of larceny~~, being the property of another, with an intent to steal or convert the carcass or skin of any such animal to his own use or to prevent identification by the true owner, then he shall upon conviction be punished in the same manner prescribed by law for ~~feloniously stealing property~~ theft of the value of the animals.

SECTION 293. Arkansas Code § 5-73-120 is amended to read as follows:

5-73-120. Carrying a weapon.

(a) A person commits the offense of carrying a weapon if he or she possesses a handgun, knife, or club on or about his or her person, in a vehicle occupied by him or her, or otherwise readily available for use with a purpose to employ it as a weapon against a person.

(b) As used in this section, unless the context otherwise requires:

(1) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made, or adapted to be fired with one (1) hand;

(2) "Knife" means any bladed hand instrument that is capable of inflicting serious physical injury or death by cutting or stabbing. It includes a dirk, sword or spear in a cane, razor, ice pick, and a throwing star, switchblade, and butterfly knife; and

(3) "Club" means any instrument that is specially designed, made, or adapted for the purpose of inflicting serious physical injury or death by striking, including a blackjack, billie, and sap.

(c) It is a defense to a prosecution under this section that at the time of the act of carrying a weapon:

(1) The person is in his or her own dwelling, place of business, or on property in which he or she has a possessory or proprietary interest;

(2) The person is a law enforcement officer, ~~prison guard~~ correctional officer, or member of the armed forces acting in the course and scope of his or her official duties;

(3) The person is assisting a law enforcement officer, ~~prison guard~~ correctional officer, or member of the armed forces acting in the

1 course and scope of official duties pursuant to the direction or request of
2 the law enforcement officer, ~~prison guard~~ correctional officer, or member of
3 the armed forces;

4 (4) The person is carrying a weapon when upon a journey, unless
5 the journey is through a commercial airport when presenting at the security
6 checkpoint in the airport or is in the person's checked baggage and is not a
7 lawfully declared weapon;

8 (5) The person is a licensed security guard acting in the course
9 and scope of his or her duties;

10 (6) The person is hunting game with a handgun which may be
11 hunted with a handgun under rules and regulations of the Arkansas State Game
12 and Fish Commission or is en route to or from a hunting area for the purpose
13 of hunting game with a handgun;

14 (7) The person is a certified law enforcement officer; or

15 (8) The person is in a motor vehicle and the person has a
16 license to carry a concealed weapon pursuant to § 5-73-301 et seq.

17 (d)(1) Any person who carries a weapon into an establishment that
18 sells alcoholic beverages shall be deemed guilty of a misdemeanor and subject
19 to a fine of not more than two thousand five hundred dollars (\$2,500) or
20 imprisonment for not more than one (1) year, or both.

21 (2) Otherwise, carrying a weapon is a Class A misdemeanor.
22

23 SECTION 294. Arkansas Code § 16-85-506 is amended to read as follows:

24 16-85-506. Witnesses - Joint offenders.

25 In all cases where two (2) or more persons are jointly or otherwise
26 concerned in the commission of any ~~crime or misdemeanor~~ criminal offense,
27 either of the persons may be sworn as a witness in relation to the ~~crime or~~
28 ~~misdemeanor~~ criminal offense, but the testimony given by the witness shall in
29 no instance be used against him in any criminal prosecution for the same
30 offense.
31

32 SECTION 295. Arkansas Code § 16-85-702 is amended to read as follows:

33 16-85-702. Arraignment for felonies and misdemeanors - Exception.

34 The arraignment shall only be made in indictments for ~~felony~~ felonies
35 and misdemeanors and may be dispensed with by the court, with the defendant's
36 consent.

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SECTION 296. Arkansas Code § 5-51-201 is amended to read as follows:
5-51-201. Treason.

(a) Treason against the state shall consist only in levying war against the state or adhering to its enemies, giving them aid and comfort.

(b) No person shall be convicted of treason unless on the testimony of two (2) witnesses to the same overt act or his or her own confession in open court.

(c) Treason is punishable by death or life imprisonment without parole pursuant to §§ 5-4-601 - 5-4-605, 5-4-607, and 5-4-608.

(d) For all purposes other than disposition under §§ 5-4-101 - 5-4-104, 5-4-201 - 5-4-204, 5-4-301 - 5-4-309, 5-4-311, ~~5-4-312~~, 5-4-401 - 5-4-404, 5-4-501 - 5-4-504, ~~5-4-505~~, 5-4-601 - 5-4-605, 5-4-607 and ~~5-4-609~~ 5-4-608, treason is a Class A felony.

SECTION 297. Arkansas Code § 5-28-103 is amended to read as follows:
5-28-103. Criminal penalties for adult abuse.

(a) It shall be unlawful for any person or caregiver to abuse, neglect, or exploit any person subject to protection under the provisions of this chapter.

(b)(1) Any person or caregiver who purposely abuses an endangered or impaired adult in violation of the provisions of this chapter, if the abuse causes serious physical injury or substantial risk of death, shall be guilty of a Class B felony ~~and shall be punished as provided by law.~~

(2) Any person or caregiver who purposely abuses an endangered or impaired adult in violation of the provisions of this chapter, if such abuse causes physical injury, shall be guilty of a Class D felony ~~and shall be punished as provided by law.~~

(c)(1) Any person or caregiver who neglects an endangered or impaired adult in violation of the provisions of this chapter, causing serious physical injury or substantial risk of death, shall be guilty of a Class D felony ~~and shall be punished as provided by law.~~

(2) Any person or caregiver who neglects an endangered or impaired adult in violation of the provisions of this chapter, causing physical injury, shall be guilty of a Class B misdemeanor ~~and shall be punished as provided by law.~~

1 (d) Any person or caregiver who abuses an endangered or impaired adult
2 shall be guilty of a Class B misdemeanor ~~and shall be punished as provided by~~
3 ~~law.~~

4 (e)(1) Any person or caregiver who exploits a person in violation of
5 the provisions of this chapter ~~shall be guilty of a Class B felony and shall~~
6 ~~be punished as provided by law,~~ where the value of the property, assets, or
7 resources is two thousand five hundred dollars (\$2,500) or more shall be
8 guilty of a Class B felony.

9 (2) Any person or caregiver who exploits a person in violation
10 of the provisions of this chapter ~~shall be guilty of a Class C felony and~~
11 ~~shall be punished as provided by law,~~ where the value of the property,
12 assets, or resources is less than two thousand five hundred dollars (\$2,500),
13 but more than two hundred dollars (\$200) shall be guilty of a Class C felony.

14 (3) Any person or caregiver who exploits a person in violation
15 of the provisions of this chapter ~~shall be guilty of a Class A misdemeanor~~
16 ~~and shall be punished as provided by law,~~ where the value of the property,
17 assets, or resources is two hundred dollars (\$200) or less shall be guilty of
18 a Class A misdemeanor.

19
20 SECTION 298. Arkansas Code § 5-28-202 is amended to read as follows:

21 5-28-202. Penalties.

22 (a) Any person or caregiver required by this chapter to report a case
23 of suspected adult maltreatment who purposely fails to do so shall be guilty
24 of a Class B misdemeanor ~~and shall be punished as provided by law.~~

25 (b) Any person or caregiver required by this chapter to report a case
26 of suspected adult maltreatment who purposely fails to do so shall be civilly
27 liable for damages proximately caused by the failure.

28 (c) Any person, official, or institution willfully making false
29 notification under this subchapter knowing the allegations to be false shall
30 be guilty of a Class A misdemeanor.

31 (d) Any person, official, or institution willfully making false
32 notification under this subchapter knowing the allegations to be false and
33 who has been previously convicted of making false allegations shall be guilty
34 of a Class D felony.

35 (e) Any person who willfully permits and any other person who
36 encourages the release of data or information contained in the adult

1 maltreatment central registry to persons to whom disclosure is not permitted
2 under this subchapter shall be guilty of a Class A misdemeanor.

3
4 SECTION 299. Arkansas Code § 5-79-101 is amended to read as follows:

5 5-79-101. Criminal possession of body armor.

6 (a) No person may possess body armor if that person has been found
7 guilty of or has pleaded guilty or nolo contendere to any of the following
8 offenses:

- 9 (1) Capital murder, § 5-10-101;
- 10 (2) Murder in the first degree, § 5-10-102;
- 11 (3) Murder in the second degree, § 5-10-103;
- 12 (4) Manslaughter, § 5-10-104;
- 13 (5) Aggravated robbery, § 5-12-103;
- 14 (6) Battery in the first degree, § 5-13-201; or
- 15 (7) Aggravated assault, § 5-13-204.

16 (b) For the purposes of this section, "body armor" means any material
17 designed to be worn on the body and to provide bullet penetration resistance.

18 (c) A violation of this section ~~shall be deemed the criminal~~
19 ~~possession of body armor and~~ shall constitute a Class A misdemeanor.

20
21 SECTION 300. Arkansas Code § 15-4-1028 is amended to read as follows:

22 15-4-1028. Supervision of capital development companies.

23 (a) Each capital development company shall be subject to the
24 supervision, examination, and control of the Bank Commissioner in the same
25 manner, so far as applicable, as provided in § 23-46-501 et seq., and shall
26 make reports of its condition to the commissioner as the commissioner shall
27 prescribe, but the company shall not be deemed a financial institution.

28 (b) The commissioner shall have the power to:

29 (1) Make rules and regulations to regulate the safety and
30 soundness of capital development companies;

31 (2) Conduct investigations that may be necessary to determine
32 whether any person has engaged in or is about to engage in any act or
33 practice constituting ~~a violation~~ noncompliance with any provision of this
34 subchapter or of other laws of this state; and

35 (3)(A) Classify as confidential records and information obtained
36 by the State Bank Department from an investigation or examination by the

1 department's staff under § 23-46-101.

2 (B) However, for purposes of this subchapter, applications
3 for approval under § 15-4-1004 are public documents.

4 (c)(1) Whenever it appears, upon sufficient grounds or evidence
5 satisfactory to the commissioner, that any company has engaged in or is about
6 to engage in any act or practice ~~in violation~~ that is noncompliant of this
7 subchapter or any rule or regulation or order under this subchapter or that
8 the assets or capital of any company is impaired or a company's affairs are
9 in an unsafe condition, the commissioner may:

10 (A) Refer the evidence that is available concerning
11 ~~violations~~ noncompliance with this subchapter or any rule, regulation, or
12 order under this subchapter to the appropriate agency; or

13 (B)(i) Summarily order the company to cease and desist
14 from the act or practice during the time the commissioner may apply to the
15 Pulaski County Circuit Court or the circuit court in the county in which the
16 company is situated or has its principal office or place of business or in
17 which its chief officer resides, to enjoin the act or practice and to enforce
18 compliance with this subchapter or any rule, regulation, or order under this
19 subchapter.

20 (ii) However, the commissioner may apply directly to
21 the Pulaski County Circuit Court or the circuit court in the county in which
22 the company is situated or has its principal office or place of business or
23 in which its chief officer resides, for injunctive relief without issuing a
24 cease and desist order.

25 (2) Upon the entry of the order, the commissioner shall promptly
26 notify the company that the order has been entered, of the reasons for the
27 entry of the order, and of the right to a hearing on the order.

28 (3)(A) A hearing shall be held on the written request of the
29 company aggrieved by the order if the request is received by the commissioner
30 within thirty (30) days after the date of the entry of the order or if
31 ordered by the commissioner.

32 (B) If no hearing is requested and none is ordered by the
33 commissioner, the order shall remain in effect until it is modified or
34 vacated by the commissioner.

35 (C) If a hearing is requested or ordered, the
36 commissioner, after notice of and an opportunity for hearing, may affirm,

1 modify, or vacate the order.

2 (4) Upon a proper showing, the circuit court shall grant a
3 permanent or temporary injunction, restraining order, or writ of mandamus and
4 may appoint a receiver or conservator for the company or its assets.

5 (5) The circuit court shall not require the commissioner to post
6 a bond.

7 (6) In addition to any other remedy provided in this subchapter
8 or under other applicable law, the circuit court may impose as additional
9 damages payable by the company the costs incurred by the commissioner in
10 successfully ~~prosecuting violations~~ pursuing acts of noncompliance with this
11 subchapter.

12 (7) The commissioner shall forward a copy of all reports of the
13 investigation or other proceedings conducted under this section to the
14 Director of the Department of Finance and Administration.

15 (d) Each company shall deliver a quarterly report to the commissioner
16 and the Department of Finance and Administration that describes each
17 investment transaction made by the company in the previous quarter and the
18 economic benefits and any tax credits allowed under this subchapter.

19 (e) Each company shall deliver an annual report to the commissioner
20 and the Department of Finance and Administration within six (6) months after
21 the close of its fiscal year that shall include an annual audit of the
22 activities conducted by the company and shall list any tax credits allowed
23 under this subchapter.

24

25 SECTION 301. Arkansas Code § 5-64-101 is amended to read as follows:

26 5-64-101. Definitions.

27 As used in ~~subchapters 1-6~~ of this chapter:

28 (a) "Administer" means the direct application of a controlled
29 substance, whether by injection, inhalation, ingestion, or any other means,
30 to the body of a patient or research subject by:

31 (1) A practitioner; or

32 (2) The patient or research subject at the direction and in the
33 presence of the practitioner;

34 (b) "Agent" means an authorized person who acts on behalf of or at the
35 direction of a manufacturer, distributor, or dispenser. It does not include a
36 common or contract carrier, public warehouseman, or employee of the carrier

1 or warehouseman;

2 (c)(1) "Anabolic steroid" means any drug or hormonal substance,
3 chemically and pharmacologically related to testosterone, other than
4 estrogens, progestin, and corticosteroid that promotes muscle growth.

5 (2) "Anabolic steroid" does not include an anabolic steroid
6 which is expressly intended for administration through implants to cattle or
7 other nonhuman species and which has been approved by the Director of the
8 Department of Health for such administration. If any person prescribes,
9 dispenses, or distributes such a steroid for human use, the person shall be
10 considered to have prescribed, dispensed, or distributed an anabolic steroid
11 within the meaning of this subsection.

12 (e)(d) "Bureau" means the Drug Enforcement Agency of the United
13 States Department of Justice, or its successor agency;

14 (d)(e) "Controlled substance" means a drug, substance, or immediate
15 precursor in Schedules I through VI;

16 (e)(f) The term "~~counterfeit~~ "Counterfeit substance" means a
17 noncontrolled substance, which by overall dosage unit appearance (including
18 color, shape, size, markings, packaging, labeling, and overall appearance) or
19 upon the basis of representations made to the recipient, purports to be a
20 controlled substance or to have the physical or psychological effect
21 associated with a controlled substance; In determining whether a substance is
22 counterfeit, the following factors shall be utilized. A finding of any two
23 (2) of these factors constitutes prima facie evidence that a substance is a
24 "counterfeit substance":

25 (1) Statements made by an owner or by anyone else in control of
26 the substance concerning the nature of the substance, or its use or effect;

27 (2) The physical appearance of the finished product containing
28 the noncontrolled substance is substantially the same as that of a specific
29 controlled substance;

30 (3) The noncontrolled substance is unpackaged or is packaged in
31 a manner normally used for the illegal delivery of a controlled substance;

32 (4) The noncontrolled substance is not labeled in accordance
33 with 21 U.S.C. § 352 or
34 § 353;

35 (5) The person delivering, attempting to deliver, or causing
36 delivery of the noncontrolled substance states or represents to the recipient

1 that the noncontrolled substance may be resold at a price that substantially
2 exceeds the value of the substance;

3 (6) Evasive tactics or actions utilized by the owner or person
4 in control of the substance to avoid detection by law enforcement
5 authorities;

6 (7) Prior convictions, if any, of an owner, or anyone in control
7 of the object under state or federal laws related to controlled substances or
8 fraud;

9 ~~(f)~~(g) "Deliver" or "delivery" means the actual, constructive, or
10 attempted transfer from one (1) person to another of a controlled substance
11 or counterfeit substance in exchange for money or anything of value, whether
12 or not there is an agency relationship;

13 (h) "Director" means the Director of the Department of Health or his
14 duly authorized agent;

15 ~~(g)~~(i) "Dispense" means to deliver a controlled substance to an
16 ultimate user or research subject by or pursuant to the lawful order of a
17 practitioner, including the prescribing, administering, packaging, labeling,
18 or compounding necessary to prepare the substance for that delivery;

19 ~~(h)~~(j) "Dispenser" means a practitioner who dispenses;

20 ~~(i)~~(k) "Distribute" means to deliver other than by administering or
21 dispensing a controlled substance;

22 ~~(j)~~(l) "Distributor" means a person who distributes;

23 ~~(k)~~(m) "Drug" means:

24 (1) Substances recognized as drugs in the official United States
25 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or
26 official National Formulary, or any supplement to any of them;

27 (2) Substances intended for use in the diagnosis, cure,
28 mitigation, treatment, or prevention of disease in man or animals;

29 (3) Substances (other than food) intended to affect the
30 structure or any function of the body of man or animals; and

31 (4) Substances intended for use as a component of any article
32 specified in clause (1), (2), or (3) of this subsection. It does not include
33 devices or their components, parts, or accessories;

34 (n)(1) "Drug paraphernalia" means all equipment, products, and
35 materials of any kind that are used, intended for use, or designed for use,
36 in planting, propagating, cultivating, growing, harvesting, manufacturing,

1 compounding, converting, producing, processing, preparing, testing,
2 analyzing, packaging, repackaging, storing, containing, concealing,
3 injecting, ingesting, inhaling, or otherwise introducing into the human body
4 a controlled substance in violation of this chapter. It includes, but is not
5 limited to:

6 (A) Kits used, intended for use, or designed for use in
7 planting, propagating, cultivating, growing, or harvesting any species of
8 plant that is a controlled substance or from which a controlled substance can
9 be derived;

10 (B) Kits used, intended for use, or designed for use in
11 manufacturing, compounding, converting, producing, processing, or preparing
12 controlled substances;

13 (C) Isomerization devices used, intended for use, or
14 designed for use in increasing the potency of any species of plant that is a
15 controlled substance;

16 (D) Testing equipment used, intended for use, or designed
17 for use in identifying or in analyzing the strength, effectiveness, or purity
18 of controlled substances;

19 (E) Scales and balances used, intended for use, or
20 designed for use in weighing or measuring controlled substances;

21 (F) Diluents and adulterants, such as quinine
22 hydrochloride, mannitol, mannite, dextrose, and lactose used, intended for
23 use, or designed for use in cutting controlled substances;

24 (G) Separation gins and sifters used, intended for use, or
25 designed for use in removing twigs and seeds from, or in otherwise cleaning
26 or refining, marijuana;

27 (H) Blenders, bowls, containers, spoons, and mixing
28 devices used, intended for use, or designed for use in compounding controlled
29 substances;

30 (I) Capsules, balloons, envelopes, and other containers
31 used, intended for use, or designed for use in packaging small quantities of
32 controlled substances;

33 (J) Containers and other objects used, intended for use,
34 or designed for use in storing or concealing controlled substances;

35 (K) Hypodermic syringes, needles, and other objects used,
36 intended for use, or designed for use in parenterally injecting controlled

1 substances into the human body; and

2 (L) Objects used, intended for use, or designed for use in
3 ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or
4 hashish oil into the human body, such as:

5 (i) Metal, wooden, acrylic, glass, stone, plastic,
6 or ceramic pipes with or without screens, permanent screens, hashish heads,
7 or punctured metal bowls;

8 (ii) Water pipes;

9 (iii) Carburetion tubes and devices;

10 (iv) Smoking and carburetion masks;

11 (v) Roach clips, meaning objects used to hold
12 burning material, such as a marijuana cigarette that has become too small or
13 too short to be held in the hand;

14 (vi) Miniature cocaine spoons and cocaine vials;

15 (vii) Chamber pipes;

16 (viii) Carburetor pipes;

17 (ix) Electric pipes;

18 (x) Air-driven pipes;

19 (xi) Chillums;

20 (xii) Bongs; and

21 (xiii) Ice pipes or chillers.

22 (2) In determining whether an object is drug paraphernalia, a
23 court or other authority should consider, in addition to all other logically
24 relevant factors, the following:

25 (A) Statements by an owner or by anyone in control of the
26 object concerning its use;

27 (B) Prior convictions, if any, of an owner, or of anyone
28 in control of the object, under any state or federal law relating to any
29 controlled substance;

30 (C) The proximity of the object, in time and space, to a
31 direct violation of this chapter;

32 (D) The proximity of the object to controlled substances;

33 (E) The existence of any residue of controlled substances
34 on the object;

35 (F) Direct or circumstantial evidence of the intent of an
36 owner, or of anyone in control of the object, to deliver it to persons whom

1 he knows, or should reasonably know, intend to use the object to facilitate a
2 violation of this chapter; the innocence of an owner, or of anyone in control
3 of the object, as to a direct violation of this chapter shall not prevent a
4 finding that the object is intended for use, or designed for use, as drug
5 paraphernalia;

6 (G) Instructions, oral or written, provided with the
7 object concerning its use;

8 (H) Descriptive materials accompanying the object which
9 explain or depict its use;

10 (I) National and local advertising concerning its use;

11 (J) The manner in which the object is displayed for sale;

12 (K) Whether the owner, or anyone in control of the object,
13 is a legitimate supplier of like or related items to the community, such as a
14 licensed distributor or dealer of tobacco products;

15 (L) Direct or circumstantial evidence of the ratio of
16 sales of the objects to the total sales of the business enterprise;

17 (M) The existence and scope of legitimate uses for the
18 object in the community; and

19 (N) Expert testimony concerning its use;

20 ~~(l)~~(o) "Immediate precursor" means a substance which the director has
21 found to be and by rule designates as being the principal compound commonly
22 used or produced primarily for use, and which is an immediate chemical
23 intermediary used or likely to be used in the manufacture of a controlled
24 substance, the control of which is necessary to prevent, curtail, or limit
25 manufacture;

26 ~~(m)~~(p) "Manufacture" means the production, preparation, propagation,
27 compounding, conversion, or processing of a controlled substance, either
28 directly or indirectly by extraction from substances of natural origin, or
29 independently by means of chemical synthesis, or by a combination of
30 extraction and chemical synthesis, and includes any packaging or repackaging
31 of the substance or labeling or relabeling of its container, except that this
32 term does not include the preparation or compounding of a controlled
33 substance by an individual for his own use or the preparation, compounding,
34 packaging, or labeling of a controlled substance:

35 (l) By a practitioner as an incident to his administering or
36 dispensing of a controlled substance in the course of his or her professional

1 practice; or

2 (2) By a practitioner or by his or her authorized agent under
3 his supervision for the purpose of, or as an incident to, research, teaching,
4 or chemical analysis and not for sale;

5 ~~(n)~~(q) "Marijuana" means all parts and any variety and/or species of
6 the plant Cannabis that contains THC (Tetrahydrocannabinol) whether growing
7 or not; the seeds thereof; the resin extracted from any part of the plant;
8 and every compound, manufacture, salt, derivative, mixture, or preparation of
9 the plant, its seeds or resin. It does not include the mature stalks of the
10 plant, fiber produced from the stalks, oil or cake made from the seeds of the
11 plant, any other compound, manufacture, salt, derivative, mixture, or
12 preparation of the mature stalks (except the resin extracted there from),
13 fiber, oil, or cake, or the sterilized seed of the plant which is incapable
14 of germination;

15 ~~(e)~~(r)(1) "Narcotic drug" means any drug which is defined as a
16 narcotic drug by order of the Director of the Department of Health. In the
17 formulation of definitions of narcotic drugs, the Director of the Department
18 of Health is directed to include all drugs which he or she finds are narcotic
19 in character and by reason thereof are dangerous to the public health or are
20 promotive of addiction-forming or addiction-sustaining results upon the user
21 which threaten harm to the public health, safety, or morals. In formulating
22 these definitions, the Director of the Department of Health shall take into
23 consideration the provisions of the federal narcotic laws as they exist from
24 time to time and shall amend the definitions so as to keep them in harmony
25 with the definitions prescribed by the federal narcotic laws, so far as is
26 possible under the standards established herein and under the policy of this
27 section.

28 (2) "Narcotic drug" also means any of the following, whether
29 produced directly or indirectly by extraction from substances of vegetable
30 origin or independently by means of chemical synthesis, or by a combination
31 of extraction and chemical synthesis:

32 (A) Opium, opiates, derivatives of opium and opiates,
33 including their isomers, esters, and ethers whenever the existence of such
34 isomers, esters, ethers, and salts is possible within the specific chemical
35 designation. This term does not include the isoquinoline alkaloids of opium;

36 (B) Poppy straw and concentrate of poppy straw;

1 (C) Coca leaves, except coca leaves and extracts of coca
2 leaves from which cocaines, ecgonine, and derivatives of ecgonine or their
3 salts have been removed;

4 (D) Cocaine, its salts, optical and geometric isomers, and
5 salts of isomers;

6 (E) Ecgonine, its derivatives, their salts, isomers, and
7 salts of isomers;

8 (F) Any compound, mixture, or preparation which contains
9 any quantity of any of the substances referred to in subdivisions

10 ~~(e)-(r)~~(2)(A)-(E).

11 (s) "Noncontrolled substance" means any liquid, substance, or material
12 not listed in Schedules I through VI of the Schedules of Controlled
13 Substances promulgated by the Director of the Department of Health;

14 ~~(p)-(t)~~ "Person" means individual, corporation, government or
15 governmental subdivision or agency, business trust, estate, trust,
16 partnership or association, or any other legal entity;

17 ~~(q)-(u)~~ "Practitioner" means:

18 (1) A physician, dentist, veterinarian, scientific investigator,
19 or other person licensed, registered, or otherwise permitted to distribute,
20 dispense, conduct research with respect to, or to administer a controlled
21 substance in the course of professional practice or research in this state;

22 (2) A pharmacy, hospital, or other institution licensed,
23 registered, or otherwise permitted to distribute, dispense, conduct research
24 with respect to, or to administer a controlled substance in the course of
25 professional practice or research in this state;

26 ~~(r)-(v)~~ "Production" includes the manufacture, planting, cultivation,
27 growing, or harvesting of a controlled substance;

28 ~~(s)-(w)~~ "State" when applied to a part of the United States, includes
29 any state, district, commonwealth, territory, insular possession thereof, and
30 any area subject to the legal authority of the United States of America; and

31 ~~(t)-(x)~~ "Ultimate user" means a person who lawfully possesses a
32 controlled substance for his own use or for the use of a member of his
33 household or for administering to an animal owned by him or by a member of
34 his household+.

35 ~~(u) "Director" shall mean the Director of the Arkansas Department of~~
36 ~~Health or his duly authorized agent+;~~

1 ~~(v) The term "drug paraphernalia" means all equipment, products, and~~
2 ~~materials of any kind which are used, intended for use, or designed for use,~~
3 ~~in planting, propagating, cultivating, growing, harvesting, manufacturing,~~
4 ~~compounding, converting, producing, processing, preparing, testing,~~
5 ~~analyzing, packaging, repackaging, storing, containing, concealing,~~
6 ~~injecting, ingesting, inhaling, or otherwise introducing into the human body~~
7 ~~a controlled substance in violation of subchapters 1-6 of this chapter~~
8 ~~(meaning the Controlled Substances Act of this state). It includes, but is~~
9 ~~not limited to:~~

10 ~~(1) Kits used, intended for use, or designed for use in~~
11 ~~planting, propagating, cultivating, growing, or harvesting of any species of~~
12 ~~plant which is a controlled substance or from which a controlled substance~~
13 ~~can be derived;~~

14 ~~(2) Kits used, intended for use, or designed for use in~~
15 ~~manufacturing, compounding, converting, producing, processing, or preparing~~
16 ~~controlled substances;~~

17 ~~(3) Isomerization devices used, intended for use, or designed~~
18 ~~for use in increasing the potency of any species of plant which is a~~
19 ~~controlled substance;~~

20 ~~(4) Testing equipment used, intended for use, or designed for~~
21 ~~use in identifying, or in analyzing the strength, effectiveness, or purity of~~
22 ~~controlled substances;~~

23 ~~(5) Scales and balances used, intended for use, or designed for~~
24 ~~use in weighing or measuring controlled substances;~~

25 ~~(6) Diluents and adulterants, such as quinine hydrochloride,~~
26 ~~mannitol, mannite, dextrose, and lactose, used, intended for use, or designed~~
27 ~~for use in cutting controlled substances;~~

28 ~~(7) Separation gins and sifters used, intended for use, or~~
29 ~~designed for use in removing twigs and seeds from, or in otherwise cleaning~~
30 ~~or refining, marijuana;~~

31 ~~(8) Blenders, bowls, containers, spoons, and mixing devices used,~~
32 ~~intended for use, or designed for use in compounding controlled substances;~~

33 ~~(9) Capsules, balloons, envelopes and other containers used,~~
34 ~~intended for use, or designed for use in packaging small quantities of~~
35 ~~controlled substances;~~

36 ~~(10) Containers and other objects used, intended for use, or~~

1 ~~designed for use in storing or concealing controlled substances;~~

2 ~~(11) Hypodermic syringes, needles, and other objects used,~~
3 ~~intended for use, or designed for use in parenterally injecting controlled~~
4 ~~substances into the human body; and~~

5 ~~(12) Objects used, intended for use, or designed for use in~~
6 ~~ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or~~
7 ~~hashish oil into the human body, such as:~~

8 ~~(A) Metal, wooden, acrylic, glass, stone, plastic, or~~
9 ~~ceramic pipes with or without screens, permanent screens, hashish heads, or~~
10 ~~punctured metal bowls;~~

11 ~~(B) Water pipes;~~

12 ~~(C) Carburetion tubes and devices;~~

13 ~~(D) Smoking and carburetion masks;~~

14 ~~(E) Roach clips; meaning objects used to hold burning~~
15 ~~material, such as a marijuana cigarette, that has become too small or too~~
16 ~~short to be held in the hand;~~

17 ~~(F) Miniature cocaine spoons and cocaine vials;~~

18 ~~(G) Chamber pipes;~~

19 ~~(H) Carburetor pipes;~~

20 ~~(I) Electric pipes;~~

21 ~~(J) Air driven pipes;~~

22 ~~(K) Chillums;~~

23 ~~(L) Bongs; and~~

24 ~~(M) Ice pipes or chillers.~~

25 ~~In determining whether an object is drug paraphernalia, a court or~~
26 ~~other authority should consider, in addition to all other logically relevant~~
27 ~~factors, the following:~~

28 ~~(1) Statements by an owner or by anyone in control of the object~~
29 ~~concerning its use;~~

30 ~~(2) Prior convictions, if any, of an owner, or of anyone in~~
31 ~~control of the object, under any state or federal law relating to any~~
32 ~~controlled substance;~~

33 ~~(3) The proximity of the object, in time and space, to a direct~~
34 ~~violation of subchapters 1-6 of this chapter;~~

35 ~~(4) The proximity of the object to controlled substances;~~

36 ~~(5) The existence of any residue of controlled substances on the~~

1 object;

2 ~~(6) Direct or circumstantial evidence of the intent of an owner,~~
3 ~~or of anyone in control of the object, to deliver it to persons whom he~~
4 ~~knows, or should reasonably know, intend to use the object to facilitate a~~
5 ~~violation of subchapters 1-6 of this chapter; the innocence of an owner, or~~
6 ~~of anyone in control of the object, as to a direct violation of subchapters~~
7 ~~1-6 of this chapter shall not prevent a finding that the object is intended~~
8 ~~for use, or designed for use, as drug paraphernalia;~~

9 ~~(7) Instructions, oral or written, provided with the object~~
10 ~~concerning its use;~~

11 ~~(8) Descriptive materials accompanying the object which explain~~
12 ~~or depict its use;~~

13 ~~(9) National and local advertising concerning its use;~~

14 ~~(10) The manner in which the object is displayed for sale;~~

15 ~~(11) Whether the owner, or anyone in control of the object, is a~~
16 ~~legitimate supplier of like or related items to the community, such as a~~
17 ~~licensed distributor or dealer of tobacco products;~~

18 ~~(12) Direct or circumstantial evidence of the ratio of sales of~~
19 ~~the objects to the total sales of the business enterprise;~~

20 ~~(13) The existence and scope of legitimate uses for the object~~
21 ~~in the community; and~~

22 ~~(14) Expert testimony concerning its use;~~

23 ~~(w) "Nonecontrolled substance" means any liquid, substance, or material~~
24 ~~not listed in Schedules I through VI of the Schedules of Controlled~~
25 ~~Substances promulgated by the Director of the Arkansas Department of Health;~~

26 ~~(x) The term "anabolic steroid" means any drug or hormonal substance,~~
27 ~~chemically and pharmacologically related to testosterone, other than~~
28 ~~estrogens, progestin, and corticosteroid, that promotes muscle growth. Except~~
29 ~~that such term does not include an anabolic steroid which is expressly~~
30 ~~intended for administration through implants to cattle or other nonhuman~~
31 ~~species and which has been approved by the Director of the Department of~~
32 ~~Health for such administration. If any person prescribes, dispenses, or~~
33 ~~distributes such steroid for human use, such person shall be considered to~~
34 ~~have prescribed, dispensed, or distributed an anabolic steroid within the~~
35 ~~meaning of this subdivision.~~

36

1 SECTION 302. Arkansas Code § 5-64-201 is amended to read as follows:
2 5-64-201. Director's duties.

3 (a) The director shall administer ~~subchapters 1-6 of~~ this chapter and
4 may add substances to or delete or reschedule all substances enumerated in
5 the schedules, pursuant to the procedures of the Administrative Procedure
6 Act, as amended, § 25-15-201 et seq. Provided, the director shall not delete
7 any substance from the Schedules in effect on July 20, 1979, without prior
8 approval by the Legislative Council. In making a determination regarding a
9 substance, the director shall consider the following:

- 10 (1) The actual or relative potential for abuse;
- 11 (2) The scientific evidence of its pharmacological effect, if
12 known;
- 13 (3) The state of current scientific knowledge regarding the
14 substance;
- 15 (4) The history and current pattern of abuse;
- 16 (5) The scope, duration, and significance of abuse;
- 17 (6) The risk to public health;
- 18 (7) The potential of the substance to produce psychic or
19 physiological dependence liability; and
- 20 (8) Whether the substance is an immediate precursor of a
21 substance already controlled under this subchapter.

22 (b) After considering the factors enumerated in subsection (a) of this
23 section, the director shall make findings with respect thereto and issue a
24 rule controlling the substance if he or she finds the substance has a
25 potential for abuse.

26 (c) If the director designates a substance as an immediate precursor,
27 substances which are precursors of the controlled precursor shall not be
28 subject to control solely because they are precursors of the controlled
29 precursor.

30 (d) If any substance is designated as a controlled substance under
31 federal law and notice thereof is given to the director, the director shall
32 similarly control the substance under ~~subchapters 1-6 of~~ this chapter after
33 the expiration of thirty (30) days from publication in the Federal Register
34 of a final order designating a substance as a controlled substance, unless
35 within that thirty-day period, the director objects to inclusion. In that
36 case, the director shall publish the reasons for objection and afford all

1 interested parties an opportunity to be heard. At the conclusion of the
2 hearing, the director shall publish his decision. Any person aggrieved by a
3 decision of the director shall be entitled to judicial review in the Circuit
4 Court of Pulaski County. Upon publication of objection to inclusion under
5 ~~subchapters 1-6~~ of this chapter by the director, control under ~~subchapters 1-~~
6 ~~6~~ of this chapter is stayed until the director publishes his or her decision
7 or, if judicial review is sought, such inclusion is stayed until such
8 adjudication.

9 (e) Authority to control under this section does not extend to
10 distilled spirits, wine, malt beverages, or tobacco.

11 (f) The director shall schedule gamma-hydroxybutyrate and its known
12 precursors and analogs in a manner consistent with the procedures outlined in
13 this section.

14
15 SECTION 303. Arkansas Code § 5-64-301 is amended to read as follows:
16 5-64-301 - ~~5-64-306~~ 5-64-304. [Reserved.]

17
18 SECTION 304. Arkansas Code Title 5, Chapter 64, Subchapter 3 is
19 amended to add the following sections:

20 5-64-305. Powers of Arkansas State Board of Pharmacy – Sale of
21 nonnarcotic drugs.

22 Nothing contained in this chapter shall be construed to affect the
23 licensing or regulation of pharmacists or pharmacies in this state by the
24 Arkansas State Board of Pharmacy. The Arkansas State Board of Pharmacy is
25 also granted authority to inventory and destroy any outdated or unwanted
26 controlled substances at the request of its licensees with proper records of
27 such destructions provided to appropriate agencies. The Arkansas State Board
28 of Pharmacy is given primary but not exclusive jurisdiction in the
29 enforcement application of this chapter to its licensees. Nothing in this
30 chapter shall be deemed to prohibit the sale of nonnarcotic proprietary drugs
31 if such drugs may, under the federal Food, Drug, and Cosmetic Act or the
32 Food, Drug, and Cosmetic Act § 20-56-201 et seq., be lawfully sold over the
33 counter without a prescription.

34
35 5-64-306. Offenses relating to records.

36 It is unlawful for any person to refuse or fail to make, keep, or

1 furnish any record, notification, order form, statement, invoice, or
2 information required under this chapter.

3
4 SECTION 305. Arkansas Code §§ 5-64-401 – 5-64-405 are amended to read
5 as follows:

6 5-64-401. Criminal penalties.

7 (a) Except as authorized by subchapters 1-6 of this chapter, it is
8 unlawful for any person to manufacture, deliver, or possess with intent to
9 manufacture or deliver a controlled substance.

10 ~~(i)~~ Any person who violates this subsection with respect to:

11 (1) I or II NARCOTIC OR METHAMPHETAMINE.

12 ~~(i)~~(A) A controlled substance classified in Schedules I or
13 II, which is a narcotic drug or methamphetamine, and by aggregate weight,
14 including adulterants or diluents, is less than twenty-eight grams (28 g.),
15 is guilty of a felony and shall be imprisoned for not less than ten (10)
16 years nor more than forty (40) years, or life, and shall be fined an amount
17 not exceeding twenty-five thousand dollars (\$25,000). For all purposes other
18 than disposition, this offense is a Class Y felony.

19 (B) A controlled substance classified in Schedules I or
20 II, which is a narcotic drug or methamphetamine, and by aggregate weight,
21 including adulterants or diluents, is twenty-eight grams (28 g.) or more but
22 less than two hundred grams (200 g.), is guilty of a felony and shall be
23 imprisoned for not less than fifteen (15) years nor more than forty (40)
24 years, or life, and shall be fined an amount not exceeding fifty thousand
25 dollars (\$50,000). For all purposes other than disposition, this offense is a
26 Class Y felony.

27 (C) A controlled substance classified in Schedules I or
28 II, which is a narcotic drug or methamphetamine, and by aggregate weight,
29 including adulterants or diluents, is two hundred grams (200 g.) or more but
30 less than four hundred grams (400 g.), is guilty of a felony and shall be
31 imprisoned for not less than twenty (20) years nor more than forty (40)
32 years, or life, and shall be fined an amount not exceeding one hundred
33 thousand dollars (\$100,000). For all purposes other than disposition, this
34 offense is a Class Y felony.

35 (D) A controlled substance classified in Schedules I or
36 II, which is a narcotic drug or methamphetamine, and by aggregate weight,

1 including adulterants or diluents, is four hundred grams (400 g.) or more, is
2 guilty of a felony and shall be imprisoned for not less than forty (40)
3 years, or life, and shall be fined an amount not exceeding two hundred and
4 fifty thousand dollars (\$250,000). For all purposes other than disposition,
5 this offense is a Class Y felony.

6 (2) OTHER I, II, or III.

7 ~~(ii)~~(A) Any other controlled substance classified in
8 Schedules I, II, or III which by aggregate weight, including adulterants or
9 diluents, is less than twenty-eight grams (28 g.), is guilty of a felony and
10 shall be imprisoned for not less than five (5) years nor more than twenty
11 (20) years and shall be fined an amount not to exceed fifteen thousand
12 dollars (\$15,000). For all purposes, other than disposition, this offense is
13 a Class B felony.

14 (B) Any other controlled substance classified in Schedules
15 I, II, or III which by aggregate weight, including adulterants or diluents,
16 is twenty-eight grams (28 g.) or more but less than four hundred grams (400
17 g.), is guilty of a felony and shall be imprisoned for not less than ten (10)
18 years nor more than forty (40) years, or life, and shall be fined an amount
19 not to exceed fifty thousand dollars (\$50,000). For all purposes other than
20 disposition, this offense is a Class B felony.

21 (C) Any other controlled substance classified in Schedules
22 I, II, or III which by aggregate weight, including adulterants or diluents,
23 is four hundred grams (400 g.) or more, is guilty of a felony and shall be
24 imprisoned for not less than fifteen (15) years nor more than forty (40)
25 years, or life, and shall be fined an amount not exceeding one hundred
26 thousand dollars (\$100,000). For all purposes other than disposition, this
27 offense is a Class B felony.

28 (3) IV or V.

29 ~~(iii)~~(A) A substance classified in Schedules IV or V which
30 by aggregate weight, including adulterants or diluents, is less than two
31 hundred grams (200 g.), is guilty of a felony and shall be imprisoned for not
32 less than three (3) years nor more than ten (10) years and shall be fined an
33 amount not exceeding ten thousand dollars (\$10,000). For all purposes other
34 than disposition, this offense is a Class C felony.

35 (B) A substance classified in Schedules IV or V which by
36 aggregate weight, including adulterants or diluents, is two hundred grams

1 (200 g.) or more but less than four hundred grams (400 g.), is guilty of a
2 felony and shall be imprisoned for not less than ten (10) years nor more than
3 forty (40) years, or life, and shall be fined an amount not exceeding fifty
4 thousand dollars (\$50,000). For all purposes other than disposition, this
5 offense is a Class C felony.

6 (C) A substance classified in Schedules IV or V which by
7 aggregate weight, including adulterants or diluents, is four hundred grams
8 (400 g.) or more, is guilty of a felony and shall be imprisoned for not less
9 than fifteen (15) years nor more than forty (40) years, or life, and shall be
10 fined an amount not exceeding one hundred thousand dollars (\$100,000). For
11 all purposes other than disposition, this offense is a Class C felony.

12 (4) VI.~~(iv)~~ A controlled substance classified in Schedule VI
13 shall be guilty of a felony and be:

14 ~~(a)~~(A) Imprisoned no less than four (4) nor more than ten
15 (10) years and/or fined no more than twenty-five thousand dollars (\$25,000)
16 if the quantity of the substance is less than ten pounds (10 lbs.) and for
17 all purposes other than disposition, this offense is a Class C felony; ~~or~~

18 ~~(b)~~(B) Imprisoned for no less than five (5) years nor more
19 than twenty (20) years and/or fined no less than fifteen thousand dollars
20 (\$15,000) nor more than fifty thousand dollars (\$50,000) if the quantity of
21 such substance is ten pounds (10 lbs.) or more but less than one hundred
22 pounds (100 lbs.) and for all purposes other than disposition, this offense
23 is a Class B felony; or

24 ~~(c)~~(C) Imprisoned for no less than six (6) years nor more
25 than thirty (30) years and/or fined no less than fifteen thousand dollars
26 (\$15,000) nor more than one hundred thousand dollars (\$100,000) if the
27 quantity of the substance is one hundred pounds (100 lbs.) or more and for
28 all purposes other than disposition, this offense is a Class A felony.

29 (b) COUNTERFEIT SUBSTANCE – REBUTTABLE PRESUMPTION. Except as
30 authorized by ~~subchapters 1-6 of~~ this chapter, it is unlawful for any person
31 to create, deliver, or possess with intent to deliver, a counterfeit
32 substance. For purposes of this subsection, possession of one hundred (100)
33 dosage units of any one (1) counterfeit substance or possession of two
34 hundred (200) dosage units of counterfeit substances regardless of the type
35 shall create a rebuttable presumption that such person possesses such
36 counterfeit substance with intent to deliver. ~~in violation of subsections (a)~~

1 ~~and (b) of this section.~~ (1) Any person who violates this subsection with
2 respect to:

3 ~~(i)~~(1) A counterfeit substance purporting to be a controlled
4 substance classified in Schedule I or II, which is a narcotic drug, or
5 methamphetamine is guilty of a Class B felony;

6 ~~(ii)~~(2) Any other counterfeit substance purporting to be a
7 controlled substance classified in Schedules I, II, or III, is guilty of a
8 Class C felony;

9 ~~(iii)~~(3) A counterfeit substance purporting to be a controlled
10 substance classified in Schedule IV, is guilty of a Class C felony;

11 ~~(iv)~~(4) A counterfeit substance purporting to be a controlled
12 substance classified in Schedule V, is guilty of a Class C felony; and

13 ~~(v)~~(5) A counterfeit substance purporting to be a controlled
14 substance which is not classified as a scheduled controlled substance, is
15 guilty of a Class D felony.

16 (c) POSSESSION. It is unlawful for any person to possess a controlled
17 substance or counterfeit substance unless the substance was obtained directly
18 from, or pursuant to, a valid prescription or order of a practitioner while
19 acting in the course of his professional practice, or except as otherwise
20 authorized by this chapter. ~~Any person convicted of a first offense for~~
21 ~~violation of this subsection is guilty of a Class A misdemeanor. Provided any~~
22 ~~person who is convicted of a second offense for a violation of this~~
23 ~~subsection is guilty of a Class D felony. Provided, any person who is~~
24 ~~convicted of a third or subsequent offense for violation of this subsection~~
25 ~~shall be guilty of a Class C felony. Provided, however, any person who~~
26 ~~unlawfully possesses a controlled substance listed under Schedules I or II of~~
27 ~~subchapters 1-6 of this chapter shall be guilty of a Class C felony. Any~~
28 person who violates this subsection with respect to:

29 (1) A controlled substance classified in Schedules I or II of
30 this chapter is guilty of a Class C felony;

31 (2) Any other controlled substance, first offense, is guilty of
32 a Class A misdemeanor;

33 (3) Any other controlled substance, second offense, is guilty of
34 a Class D felony; and

35 (4) Any other controlled substance, third or subsequent offense,
36 is guilty of a Class C felony.

1 (d) ~~Rebuttable Presumption~~ REBUTTABLE PRESUMPTION. Possession by any
 2 person of a quantity of any controlled substance including the mixture or
 3 substance listed in this subsection in excess of the quantity limit set out
 4 herein shall create a rebuttable presumption that such person possesses such
 5 controlled substance with intent to deliver, ~~in violation of subsections (a)~~
 6 ~~and (b) of this section.~~ Provided, however, the presumption provided for
 7 ~~herein~~ The presumption may be overcome by the submission of evidence
 8 sufficient to create a reasonable doubt that the person charged possessed a
 9 controlled substance with intent to deliver ~~in violation of subsections (a)~~
 10 ~~and (b) of this section.~~

11 Heroin - 100 milligrams

12 Lysergic Acid Diethylamide (LSD) - 100 micrograms

13 Opium - 3 grams

14 Morphine - 300 milligrams

15 Cocaine - 1 gram

16 Codeine - 300 milligrams

17 Methamphetamine - 200 milligrams

18 Pethidine - 300 milligrams

19 Hydro morphine Hydrochloride - 16 milligrams

20 Methadone - 100 milligrams

21 Marijuana - 1 oz.

22 Hashish - 6 grams

23 ~~Lysergic Acid Diethylamide (LSD) - 100 micrograms~~

24 For controlled substances other than those listed above:

25 Depressant Drug - 20 hypnotic dosage units

26 Stimulant Drug - 200 milligrams

27 Hallucinogenic Drug - 10 dosage units.

28 (e) ~~Immunity~~ IMMUNITY. No civil or criminal liability shall be imposed
 29 by virtue of ~~subchapters 1-6~~ of this chapter on any practitioner who
 30 manufactures, distributes, or possesses a counterfeit substance for use by a
 31 registered practitioner in the course of professional practice or research,
 32 or for use as a placebo by a registered practitioner in the course of
 33 professional practice or research.

34 (f) POSSESSION - ENHANCED PENALTIES. When any person is convicted of
 35 the unlawful possession of a controlled substance in any state, county, or
 36 city criminal detention facility, or any juvenile detention facility, the

1 penalty for the offense shall be increased to the next higher classification
2 of felony or misdemeanor as prescribed by law for the offense.

3 (g) ~~Rebuttable presumption on attempt to manufacture methamphetamine~~
4 REBUTTABLE PRESUMPTION ON ATTEMPT TO MANUFACTURE METHAMPHETAMINE.

5 Simultaneous possession by any person of drug paraphernalia as defined in §
6 5-64-101 and drug precursors appropriate for use to manufacture
7 methamphetamine, or possession by any person of drug paraphernalia
8 appropriate for use to manufacture methamphetamine which tests positive for
9 methamphetamine residue shall create a rebuttable presumption that such
10 person has engaged in conduct that constitutes a substantial step in a course
11 of conduct intended to result in the manufacture of methamphetamine in
12 violation of § 5-3-201, conduct constituting attempt and this section.
13 ~~Provided, however, the presumption provided for herein~~ The presumption may be
14 overcome by the submission of evidence sufficient to create a reasonable
15 doubt that the person charged attempted to manufacture methamphetamine.

16 ~~(h)-(i)~~ CLEAN UP LIABILITY – RESTITUTION.

17 (1) A person who violates this section shall be liable for the
18 cost of the cleanup of the site or sites where the person:

19 (A) Manufactured a controlled substance; or

20 (B) Possessed drug paraphernalia or chemicals for the
21 purpose of manufacturing a controlled substance.

22 (2) The person shall make restitution to the state or local
23 agency responsible for the cleanup for the cost of the cleanup under § 5-4-
24 205.

25
26 5-64-402. Offenses relating to ~~records~~, maintaining premises, etc.

27 (a) It is unlawful for any person:

28 ~~(1) To refuse or fail to make, keep, or furnish any record,~~
29 ~~notification, order form, statement, invoice, or information required under~~
30 ~~subchapters 1-6 of this chapter;~~

31 ~~(2)(1)~~ To refuse an entry into any premises for any inspection
32 authorized by this chapter; or

33 ~~(3)(2)~~ Knowingly to keep or maintain any store, shop, warehouse,
34 dwelling, building, or other structure or place or premise, which is resorted
35 to by persons for the purpose of using or obtaining these substances or which
36 is used for keeping them in violation of ~~subchapters 1-6 of this chapter.~~

1 (b) Any person who violates this section is guilty of a Class D felony
 2 except that violation of this section is a Class B felony if the violation is
 3 committed on or within one thousand (1,000) feet of the real property of a
 4 certified Drug Free Zone.

5 (c) The following are certified Drug Free Zones:

6 (1) A city or state park;

7 (2) A public or private elementary or secondary school, public
 8 vocational school, or private or public college or university;

9 (3) A community or recreation center;

10 (4) A Boys Club, Girls Club, YMCA, or YWCA; or

11 (5) A skating rink or video arcade.

12 ~~(d) For the purpose of this section, "minor" means any person under~~
 13 ~~eighteen (18) years of age.~~

14
 15 5-64-403. Fraud - ~~Drug paraphernalia~~ Criminal penalties - Drug
 16 Paraphernalia.

17 (a) FRAUD. It is unlawful for any person knowingly or intentionally:

18 (1) To distribute as a registrant a controlled substance
 19 classified in Schedules I or II, except pursuant to an order form as required
 20 by § 5-64-307;

21 (2) To acquire or obtain possession of a controlled substance by
 22 misrepresentation, fraud, forgery, deception, subterfuge, or theft;

23 (3) To furnish false or fraudulent material information in, or
 24 omit any material information from, any record, application, report, or other
 25 document required to be kept or filed under ~~subchapters 1-6 of this chapter,~~
 26 ~~or any record required to be kept by subchapters 1-6 of this chapter; or~~

27 (4) To make, distribute, or possess any punch, die, plate,
 28 stone, or other thing designed to print, imprint, or reproduce the trademark,
 29 trade name, or other identifying mark, imprint, or device of another or any
 30 likeness of any of the foregoing upon any drug or container or labeling
 31 thereof so as to render the drug a counterfeit substance; and

32 (5)(i) To agree, consent, or in any manner offer to unlawfully
 33 sell, furnish, transport, administer, or give any controlled substance to any
 34 person, or to arrange for any of the above, and then to substitute a non-
 35 controlled substance in lieu of the controlled substance bargained for.

36 (ii) The proffer of a controlled substance shall

1 create a rebuttable presumption of intent to deliver which does not require
2 additional showing of specific intent to substitute a noncontrolled
3 substance.

4 (b) PENALTIES.

5 (1) Any person who violates any provision of subdivisions (a)(1)-
6 (4) of this section is guilty of a Class C felony.

7 (2) Any person who violates subdivision (a)(5) of this section
8 with respect to:

9 ~~(i)~~(A) A noncontrolled substance represented to be a
10 controlled substance classified in Schedules I or II, which is a narcotic
11 drug, is guilty of a Class B felony;

12 ~~(ii)~~(B) Any other noncontrolled substance represented to
13 be a controlled substance classified in Schedules I, II, or III, is guilty of
14 a Class C felony;

15 ~~(iii)~~(C) A noncontrolled substance represented to be a
16 controlled substance classified in Schedule IV, is guilty of a Class C
17 felony;

18 ~~(iv)~~(D) A noncontrolled substance represented to be a
19 controlled substance classified in Schedule V, is guilty of a Class C felony;
20 and

21 ~~(v)~~(E) A noncontrolled substance represented to be a
22 controlled substance classified in Schedule VI, is guilty of a Class D
23 felony.

24 (c)~~(1)~~(A)~~(i)~~ DRUG PARAPHERNALIA.

25 (1)(A)(i) It is unlawful for any person to use, or to possess
26 with intent to use, drug paraphernalia to plant, propagate, cultivate, grow,
27 harvest, manufacture, compound, convert, produce, process, prepare, test,
28 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
29 otherwise introduce into the human body a controlled substance in violation
30 of ~~subchapters 1-6~~ of this chapter.

31 (ii) A violation of this subdivision (c)(1)(A)(i) is
32 a Class A misdemeanor.

33 (B) Any person who violates this section in the course of
34 and in furtherance of a felony violation of ~~subchapters 1-6~~ of this chapter
35 is guilty of a Class C felony.

36 (2)(A) It is unlawful for any person to deliver, possess with

1 intent to deliver, or manufacture with intent to deliver, drug paraphernalia,
2 knowing, or under circumstances where one reasonably should know, that it
3 will be used to plant, propagate, cultivate, grow, harvest, manufacture,
4 compound, convert, produce, process, prepare, test, analyze, pack, repack,
5 store, contain, conceal, inject, ingest, inhale, or otherwise introduce into
6 the human body a controlled substance in violation of ~~subchapters 1-6 of this~~
7 chapter. Any person who violates this subdivision (c)(2)(A) of this section
8 is guilty of a Class A misdemeanor.

9 (B) Any person who violates subdivision (c)(2)(A) of this
10 section in the course of and in furtherance of a felony violation of
11 ~~subchapters 1-6 of this chapter~~ is guilty of a Class C felony.

12 (3)(A) Any person eighteen (18) years of age or over who
13 violates subdivision (c)(2) of this section immediately preceding by
14 delivering drug paraphernalia in the course of and in furtherance of a felony
15 violation of ~~subchapters 1-6 of this chapter~~ to a person under eighteen (18)
16 years of age who is at least three (3) years his junior is guilty of a Class
17 B felony.

18 (B) Delivering Otherwise, any person eighteen (18) years
19 of age or over who violates subdivision (c)(2) by delivering drug
20 paraphernalia to a person under eighteen (18) years of age who is at least
21 three (3) years his junior is guilty of a Class A misdemeanor.

22 (4) It is unlawful for any person to place in any newspaper,
23 magazine, handbill, or other publication any advertisement knowing, or under
24 circumstances where one reasonably should know, that the purpose of the
25 advertisement, in whole or in part, is to promote the sale of counterfeit
26 substances or of objects designed or intended for use as drug paraphernalia.
27 Any person who violates this section is guilty of a Class C felony.

28 (5) It is unlawful for any person to use, or to possess with
29 intent to use, drug paraphernalia to manufacture methamphetamine in violation
30 of this chapter. Any person who pleads guilty, nolo contendere, or is found
31 guilty of violating the provisions of this subsection shall be guilty of a
32 Class B felony ~~and shall be fined an amount not exceeding fifteen thousand~~
33 ~~dollars (\$15,000).~~

34
35 5-64-404. ~~Penalties under other laws~~ Communication Devices.

36 ~~Any penalty imposed for violation of subchapters 1-6 of this chapter is~~

1 ~~in addition to, and not in lieu of, any civil or administrative penalty or~~
2 ~~sanction otherwise authorized by law.~~

3 (a) For purposes of this section, "communication device" means any and
4 all public and private instrumentalities used or useful in transmission of
5 writing, signs, signals, pictures, or sounds of all kinds and includes mail,
6 telephone, wire, radio, and all other means of communication.

7 (b) A person commits the offense of use of a communication device if
8 he or she knowingly uses any communication device in committing or in causing
9 or facilitating the commission of any act or acts constituting a felony under
10 this chapter or any act or acts constituting a felony inchoate offense under
11 § 5-3-101 et seq. or the Uniform Controlled Substances Act, § 5-64-101 et
12 seq.

13 (c) Each separate use of a communication device shall be a separate
14 offense under this section.

15 (d) Any person who violates this section shall be guilty of a Class C
16 felony.

17
18 5-64-405. Foreign conviction Continuing Criminal Enterprise.

19 ~~If a violation of subchapters 1-6 of this chapter is a violation of a~~
20 ~~federal law or the law of another state, a conviction or acquittal under~~
21 ~~federal law or the law of another state for the same act is a bar to~~
22 ~~prosecution in this state.~~

23 (a) A person commits the offense of engaging in a continuing criminal
24 enterprise if he or she:

25 (1) Violates any provision of this chapter which is a felony,
26 except § 5-64-401(c); and

27 (2) The violation is a part of a continuing series of two (2) or
28 more felony offenses of this chapter, except § 5-64-401(c):

29 (A) Which are undertaken by that person in concert with
30 five (5) or more other persons with respect to whom that person occupies a
31 position of organizer, a supervisory position, or any other position of
32 management; and

33 (B) From which that person obtained substantial income or
34 resources.

35 (b) A person who engages in a continuing criminal enterprise is guilty
36 of a felony and upon conviction shall be sentenced to a term of imprisonment

1 up to two (2) times the term otherwise authorized for the underlying offense
2 referenced in subdivision (a)(1) of this section and shall be fined an amount
3 up to two (2) times that is authorized for the underlying offense referenced
4 in subdivision (a)(1) of this section. For all purposes other than
5 disposition, engaging in a continuous criminal enterprise is a Class Y
6 felony.

7 (c) A person who violates subsection (a) of this section after a
8 previous conviction under subsection (a) of this section has become final is
9 guilty of a felony and shall be punished by a term of imprisonment not
10 exceeding three (3) times that authorized for the underlying offense
11 referenced in subdivision (a)(1) of this section, and a fine not exceeding
12 three (3) times the amount authorized for the underlying offense referenced
13 in subdivision (a)(1) of this section. For all purposes other than
14 disposition, engaging in a continuous criminal enterprise is a Class Y
15 felony.

16 (d) Upon conviction the prosecuting attorney may institute a civil
17 action against any person who violates this section to obtain a judgment
18 against all persons who violate this section, jointly and severally, for
19 damages in an amount equal to three (3) times the proceeds acquired by all
20 persons involved in the enterprise or by reason of conduct in furtherance of
21 the enterprise, together with costs incurred for resources and personnel used
22 in the investigation and prosecution of both criminal and civil proceedings.
23 The standard of proof in actions brought under this section is a
24 preponderance of the evidence. The procedures in the asset forfeiture law §
25 5-64-505 shall apply. Defendants in civil actions brought under this
26 subsection shall be entitled to trial by jury.

27 (e) Offenders found guilty of a violation of this section shall not
28 have their sentence suspended, be placed on probation, have imposition of
29 sentence suspended, have the execution of the sentence, or have the sentence
30 deferred. The offender shall not be eligible for the First Offender Act, §
31 16-93-301 et seq.

32
33 SECTION 304. Arkansas Code §§ 5-64-407 and 5-64-408 are amended to
34 read as follows:

35 5-64-407. ~~Probation—Discharge and dismissal~~ Manufacture of
36 methamphetamine in the presence of minors – Enhanced penalties.

1 ~~Whenever any person who has not previously pleaded guilty or been found~~
2 ~~guilty of any offense under subchapters 1-6 of this chapter or under any~~
3 ~~statute of the United States or of any state relating to narcotic drugs,~~
4 ~~marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty~~
5 ~~to or is found guilty of possession of a controlled substance under § 5-64-~~
6 ~~401, with the exception of a conviction for possession of a substance listed~~
7 ~~under Schedule I, the court, without entering a judgment of guilt and with~~
8 ~~the consent of the accused may defer further proceedings and place him on~~
9 ~~probation for a period of not less than one (1) year, under such terms and~~
10 ~~conditions as may be set by the court. The court may require as a condition~~
11 ~~for probation that the defendant undergo an evaluative examination by a~~
12 ~~physician or medical facility approved by the court and, if warranted,~~
13 ~~undergo in-patient or out-patient treatment and rehabilitation for drug~~
14 ~~abuse. Upon violation of a term or condition, the court may enter an~~
15 ~~adjudication of guilt and proceed as otherwise provided. Upon fulfillment of~~
16 ~~the terms and conditions, the court shall discharge the person and dismiss~~
17 ~~the proceedings against him. Discharge and dismissal under this section shall~~
18 ~~be without adjudication of guilt and is not a conviction for purposes of this~~
19 ~~section or for purposes of disqualifications or disabilities imposed by law~~
20 ~~upon conviction of a crime, including the additional penalties imposed for a~~
21 ~~second or subsequent conviction under § 5-64-410 [repealed]. There may be~~
22 ~~only one (1) discharge and dismissal under this section with respect to any~~
23 ~~person. A person against whom such proceedings are discharged or dismissed~~
24 ~~may seek to have the criminal records sealed, consistent with the procedures~~
25 ~~established in § 16-90-901 et seq.~~

26 (a) Any person who is found guilty of or who pleads guilty or nolo
27 contendere to manufacture of methamphetamine, § 5-64-401(a)(1), or possession
28 of drug paraphernalia with the intent to manufacture methamphetamine, § 5-64-
29 403(c)(5) may be subject to an enhanced sentence of an additional term of
30 imprisonment of ten (10) years if the offense is committed:

31 (1) In the presence of a minor who may or may not be related to
32 the person;

33 (2) With a minor in the same home or building where the
34 methamphetamine was being manufactured or where the drug paraphernalia to
35 manufacture methamphetamine was in use or was in preparation to be used; or

36 (3) With a minor present in the same immediate area or in the

1 same vehicle at the time of the person's arrest for the offense.

2 (b) The enhanced portion of the sentence shall be consecutive to any
3 other sentence imposed.

4 (c) Any person sentenced under this section shall not be eligible for
5 early release on parole for the enhanced portion of the sentence.

6 (d) For the purpose of this section "minor" means any person under
7 eighteen (18) years of age.

8
9 5-64-408. Subsequent convictions – Enhanced penalties.

10 (a) Any person convicted of a second or subsequent offense under this
11 chapter shall be imprisoned for a term up to twice the term otherwise
12 authorized, fined an amount up to twice that otherwise authorized, or both.

13 (b) For purposes of this section, an offense is considered a second or
14 subsequent offense if, prior to his or her conviction of the offense, the
15 offender has at any time been convicted under this chapter or under any
16 statute of the United States or of any state relating to narcotic drugs,
17 marijuana, depressant, stimulant, or hallucinogenic drugs.

18 (c) This section does not apply to offenses under § 5-64-401(c).
19

20 SECTION 305. Arkansas Code §§ 5-64-410 – 5-64-413, as amended by Act
21 195 of 2005, are amended to read as follows:

22 5-64-410. ~~{Repealed.}~~ Penalties for delivery – Enhanced Penalties.

23 (a)(1) Notwithstanding any other provisions of law to the contrary:

24 (A) Any person convicted of delivering controlled
25 substances included in Schedule I shall be sentenced for a term of
26 imprisonment of not less than ten (10) years.

27 (B) Any person convicted of delivering controlled
28 substances included in Schedules I through VI to school students in grades
29 one through twelve (1-12) or any other person under eighteen (18) years of
30 age shall be sentenced for a term of imprisonment of not less than ten (10)
31 years.

32 (2) A person over eighteen (18) years of age convicted of the
33 offenses defined in this subsection, except delivery of less than one (1)
34 ounce of a Schedule VI controlled substance, shall not be eligible for early
35 release on parole as provided in § 16-93-601.

36 (b) The provisions of this section shall be cumulative and supplemental

1 to any other laws of this state prescribing penalties for delivery of
2 controlled substances and shall be deemed to modify only those laws in direct
3 conflict.

4
5 5-64-411. ~~Distribution near~~ Proximity to certain facilities - Enhanced
6 penalties.

7 (a) Any person who commits an offense under § 5-64-401(a) by selling,
8 delivering, possessing with intent to deliver, dispensing, manufacturing,
9 transporting, administering, or distributing a controlled substance may be
10 subject to an enhanced sentence of an additional term of imprisonment of ten
11 (10) years if the offense is committed on or within one thousand feet
12 (1,000') of the real property of:

13 (1) A city or state park;

14 (2) A public or private elementary or secondary school, public
15 vocational school, or private or public college or university;

16 (3) A skating rink, Boys Club, Girls Club, YMCA, YWCA, or
17 community or recreation center;

18 (4) A publicly funded and administered multifamily housing
19 development;

20 (5) A drug or alcohol treatment facility;

21 (6) A day care center; ~~or~~

22 (7) A church; or

23 (8) A shelter as defined in § 9-4-102.

24 (b) The enhanced portion of the sentence shall be consecutive to any
25 other sentence imposed.

26 (c) Any person convicted under this section shall not be eligible for
27 early release on parole for the enhanced portion of the sentence.

28 (d)(1) Property covered by this section shall have a notice posted at
29 the entrances to the property stating:

30 "THE SALE OF DRUGS UPON OR WITHIN ONE THOUSAND FEET (1000') OF THIS
31 PROPERTY MAY SUBJECT THE SELLER OF THE DRUGS TO AN ADDITIONAL TEN (10) YEARS
32 IMPRISONMENT IN ADDITION TO THE TERM OF IMPRISONMENT OTHERWISE PROVIDED FOR
33 THE UNLAWFUL SALE OF DRUGS."

34 (2) However, the posting of the notice shall not be a necessary
35 element for the enhancement of a sentence under this section.

36 (e) For the purpose of this section, the term "recreation center"

1 shall mean a public place of entertainment consisting of various types of
 2 entertainment, including, but not limited to, billiards or pool, ping pong or
 3 table tennis, bowling, video games, pinball machines, or any other similar
 4 type of entertainment.

5

6 5-64-412. Violations by public officials or law enforcement officers -
 7 Enhanced penalties.

8 (a) As used in this section, ~~unless the context otherwise requires:~~

9 ~~(2)~~(1) "Law enforcement officer" means any member of the
 10 Arkansas State Police or the Arkansas Highway Police and any other certified
 11 law enforcement officer employed full-time by the State of Arkansas or any
 12 political subdivision thereof or court personnel in Arkansas.

13 ~~(1)~~(2) "Public official" means any person holding or appointed
 14 to an elective office of state, county, or city government, and any member of
 15 any board or commission of state, county, city, or local government including
 16 improvement districts and school districts.

17 (b) Any public official or law enforcement officer who commits a
 18 felony violation of ~~the Uniform Controlled Substances Act, §§ 5-64-101~~
 19 ~~through 5-64-608~~ this chapter, shall have any term of imprisonment imposed
 20 for the violation enhanced by a term not to exceed ten (10) years and a fine
 21 of not less than ten thousand dollars (\$10,000).

22

23 5-64-413. ~~Controlled substance analog~~ Probation - Discharge and
 24 dismissal.

25 ~~(a)(1) "Controlled substance analog" means a substance the chemical~~
 26 ~~structure of which is substantially similar to the chemical structure of a~~
 27 ~~controlled substance in Schedule I or II or which has a stimulant,~~
 28 ~~depressant, or hallucinogenic effect on the central nervous system~~
 29 ~~substantially similar to the stimulant, depressant, or hallucinogenic effect~~
 30 ~~on the central nervous system of a controlled substance included in Schedule~~
 31 ~~I or II; or with respect to a particular individual, which the individual~~
 32 ~~represents or intends to have a stimulant, depressant, or hallucinogenic~~
 33 ~~effect on the central nervous system substantially similar to the stimulant,~~
 34 ~~depressant, or hallucinogenic effect on the central nervous system of a~~
 35 ~~controlled substance included in Schedule I or II.~~

36 ~~(2) The term does not include:~~

1 ~~(A) A controlled substance;~~

2 ~~(B) A substance for which there is an approved new drug~~
3 ~~application;~~

4 ~~(C) A substance with respect to which an exemption is in~~
5 ~~effect for investigational use by a particular person under section 505 of~~
6 ~~the Federal Food, Drug and Cosmetic Act to the extent conduct with respect to~~
7 ~~the substance is pursuant to the exemption; or~~

8 ~~(D) Any substance to the extent not intended for human~~
9 ~~consumption before an exemption takes effect with respect to the substance.~~

10 ~~(b) A controlled substance analog, to the extent intended for human~~
11 ~~consumption, shall be treated, for the purposes of subchapters 1-6 of this~~
12 ~~chapter, as a substance included in Schedule I.~~

13 ~~(c) Within ten (10) days after the initiation of prosecution with~~
14 ~~respect to a controlled substance analog by indictment or information, the~~
15 ~~prosecuting attorney shall notify the Director of the Department of Health of~~
16 ~~information relevant to emergency scheduling as provided for in § 5-64-~~
17 ~~201(d).~~

18 ~~(d) After final determination that the controlled substance analog~~
19 ~~should not be scheduled, no prosecution relating to that substance as a~~
20 ~~controlled substance analog may continue or take place.~~

21 (a) Whenever any person who has not previously pleaded guilty or has
22 been found guilty of any offense under this chapter or under any statute of
23 the United States or of any state relating to narcotic drugs, marijuana,
24 stimulant, depressant, or hallucinogenic drugs pleads guilty to or is found
25 guilty of possession of a controlled substance under the Uniform Controlled
26 Substances Act, § 5-64-401, with the exception of a conviction for possession
27 of a substance listed under Schedule I, the court without entering a judgment
28 of guilt and with the consent of the accused may defer further proceedings
29 and place him or her on probation for a period of not less than one (1) year
30 under such terms and conditions as may be set by the court.

31 (b) The court may require as a condition for probation that the
32 defendant undergo an evaluative examination by a physician or medical
33 facility approved by the court and, if warranted, undergo in-patient or out-
34 patient treatment and rehabilitation for drug abuse.

35 (c) Upon violation of a term or condition, the court may enter an
36 adjudication of guilt and proceed as otherwise provided.

1 (d) Upon fulfillment of the terms and conditions, the court shall
2 discharge the person and dismiss the proceedings against him or her.
3 Discharge and dismissal under this section shall be without adjudication of
4 guilt and is not a conviction for purposes of this section or for purposes of
5 disqualifications or disabilities imposed by law upon conviction of a crime,
6 including the additional penalties imposed for a second or subsequent
7 conviction under § 5-64-408. There may be only one (1) discharge and
8 dismissal under this section with respect to any person. A person against
9 whom such proceedings are discharged or dismissed may seek to have the
10 criminal records sealed, consistent with the procedures established in § 16-
11 90-901 et seq.

12
13 SECTION 306. Arkansas Code § 5-64-414 is amended to read as follows:

14 5-64-414. ~~Continuing criminal enterprise~~ Controlled substance analog.

15 ~~(a) A person commits the offense of engaging in a continuing criminal~~
16 ~~enterprise if he:~~

17 ~~(1) Violates any provision of subchapters 1 through 6 of this~~
18 ~~chapter which is a felony, except § 5-64-401(e); and~~

19 ~~(2) The violation is a part of a continuing series of two (2) or~~
20 ~~more felony offenses of subchapters 1 through 6 of this chapter, except § 5-~~
21 ~~64-401(e);~~

22 ~~(A) Which are undertaken by that person in concert with~~
23 ~~five (5) or more other persons with respect to whom that person occupies a~~
24 ~~position of organizer, a supervisory position, or any other position of~~
25 ~~management; and~~

26 ~~(B) From which that person obtained substantial income or~~
27 ~~resources.~~

28 ~~(b) A person who engages in a continuing criminal enterprise is guilty~~
29 ~~of a felony and upon conviction shall be sentenced to a term of imprisonment~~
30 ~~up to twice the term otherwise authorized for the underlying offense~~
31 ~~referenced in subdivision (a)(1) of this section and shall be fined an amount~~
32 ~~up to twice that authorized for the underlying offense referenced in~~
33 ~~subdivision (a)(1) of this section. For all purposes other than disposition,~~
34 ~~engaging in a continuous criminal enterprise is a Class Y felony.~~

35 ~~(c) A person who violates subsection (a) of this section, after a~~
36 ~~previous conviction under that subsection has become final, is guilty of a~~

1 ~~felony and shall be punished by a term of imprisonment not exceeding three~~
2 ~~(3) times that authorized for the underlying offense referenced in~~
3 ~~subdivision (a)(1) of this section, and a fine not exceeding three (3) times~~
4 ~~the amount authorized for the underlying offense referenced in subdivision~~
5 ~~(a)(1) of this section. For all purposes other than disposition, engaging in~~
6 ~~a continuous criminal enterprise is a Class Y felony.~~

7 ~~(d) Upon conviction, the prosecuting attorney may institute a civil~~
8 ~~action against any person who violates this section to obtain a judgment~~
9 ~~against all persons who violate this section, jointly and severally, for~~
10 ~~damages in an amount equal to three (3) times the proceeds acquired by all~~
11 ~~persons involved in the enterprise or by reason of conduct in furtherance of~~
12 ~~the enterprise, together with costs incurred for resources and personnel used~~
13 ~~in the investigation and prosecution of both criminal and civil proceedings.~~
14 ~~The standard of proof in actions brought under this section is a~~
15 ~~preponderance of the evidence. The procedures in the asset forfeiture law, §~~
16 ~~5-64-505, shall apply. Defendants in civil actions brought under this~~
17 ~~subsection shall be entitled to trial by jury.~~

18 ~~(e) Notwithstanding any other provision to the contrary, offenders~~
19 ~~found guilty of a violation of this section shall not have their sentence~~
20 ~~suspended, or be placed on probation, or have imposition of sentence~~
21 ~~suspended, or have the execution of the sentence or have the sentence~~
22 ~~deferred. The individual shall not be eligible for the First Offender Act, §~~
23 ~~16-93-301 et seq., the Youthful Offender Act, § 12-28-501 et seq., or the~~
24 ~~Alternative Service Act, § 16-93-501 et seq. [repealed].~~

25 (a)(1) "Controlled substance analog" means a substance the chemical
26 structure of which is substantially similar to the chemical structure of a
27 controlled substance in Schedule I or II or which has a stimulant,
28 depressant, or hallucinogenic effect on the central nervous system
29 substantially similar to the stimulant, depressant, or hallucinogenic effect
30 on the central nervous system of a controlled substance included in Schedule
31 I or II; or with respect to a particular individual, which the individual
32 represents or intends to have a stimulant, depressant, or hallucinogenic
33 effect on the central nervous system substantially similar to the stimulant,
34 depressant, or hallucinogenic effect on the central nervous system of a
35 controlled substance included in Schedule I or II.

36 (2) The term does not include:

1 (A) A controlled substance;

2 (B) A substance for which there is an approved new drug
3 application;

4 (C) A substance with respect to which an exemption is in
5 effect for investigational use by a particular person under § 505 of the
6 federal Food, Drug, and Cosmetic Act to the extent conduct with respect to
7 the substance is pursuant to the exemption; or

8 (D) Any substance to the extent not intended for human
9 consumption before an exemption takes effect with respect to the substance.

10 (b) A controlled substance analog, to the extent intended for human
11 consumption, shall be treated for the purposes of this chapter as a substance
12 included in Schedule I.

13 (c) Within ten (10) days after the initiation of prosecution with
14 respect to a controlled substance analog by indictment or information, the
15 prosecuting attorney shall notify the Director of the Department of Health of
16 information relevant to emergency scheduling as provided for in § 5-64-
17 201(d).

18 (d) After final determination that the controlled substance analog
19 should not be scheduled, no prosecution relating to that substance as a
20 controlled substance analog may continue or take place.

21

22 SECTION 307. Arkansas Code §§ 5-64-417 and 5-64-418 are amended to
23 read as follows:

24 5-64-417. ~~Communication facility—Offense—Penalty~~ Penalties under
25 other laws.

26 ~~(a) For purposes of this section, the term "communication facility"~~
27 ~~means any and all public and private instrumentalities used or useful in~~
28 ~~transmission of writing, signs, signals, pictures, or sounds of all kinds and~~
29 ~~includes mail, telephone, wire, radio, and all other means of communication.~~

30 ~~(b) A person commits the offense of use of a communication facility if~~
31 ~~he knowingly or intentionally uses any communication facility in committing~~
32 ~~or in causing or facilitating the commission of any act or acts constituting~~
33 ~~a felony under any provision of the Uniform Controlled Substances Act, § 5-~~
34 ~~64-101 et seq., or any act or acts constituting a felony inchoate offense~~
35 ~~under § 5-3-101 et seq., or § 5-64-101 et seq.~~

36 ~~(c) Each separate use of a communication facility shall be a separate~~

1 ~~offense under this section.~~

2 ~~(d) Any person who violates this section shall be guilty of a Class C~~
3 ~~felony.~~

4 ~~(e) This section is based on 21 United States Code Section 843(b), Use~~
5 ~~of Communication Facility.~~

6 Any penalty imposed for violation of this chapter is in addition to,
7 and not in lieu of, any civil or administrative penalty or sanction otherwise
8 authorized by law.

9
10 ~~5-64-418. Manufacture of methamphetamine in the presence of minors—~~
11 ~~Enhanced penalties Foreign conviction.~~

12 ~~(a) Any person who is found guilty of or who pleads guilty or nolo~~
13 ~~contendere to manufacture of methamphetamine, § 5-64-401(a)(1)(i), or~~
14 ~~possession of drug paraphernalia with the intent to manufacture~~
15 ~~methamphetamine, § 5-64-403(c)(5) may be subject to an enhanced sentence of~~
16 ~~an additional term of imprisonment of ten (10) years if the offense is~~
17 ~~committed.~~

18 ~~(1) In the presence of a minor child or children who may or may~~
19 ~~not be related to the person;~~

20 ~~(2) With a minor child or children in the same home or building~~
21 ~~where the methamphetamine was being manufactured or where the drug~~
22 ~~paraphernalia to manufacture methamphetamine was in use or was in preparation~~
23 ~~to be used; or~~

24 ~~(3) With a minor child or children present in the same immediate~~
25 ~~area or in the same vehicle at the time of the person's arrest for the~~
26 ~~offense.~~

27 ~~(b) The enhanced portion of the sentence shall be consecutive to any~~
28 ~~other sentence imposed.~~

29 ~~(c) Any person sentenced under this section shall not be eligible for~~
30 ~~early release on parole for the enhanced portion of the sentence.~~

31 ~~(d) For the purpose of this section "minor" means any person under~~
32 ~~eighteen (18) years of age.~~

33 If a violation of this chapter is a violation of a federal law or the
34 law of another state, a conviction or acquittal under federal law or the law
35 of another state for the same act is a bar to prosecution in this state.

36

1 SECTION 308. Arkansas Code §§ 5-64-501 and 5-64-502 are amended to
2 read as follows:

3 5-64-501. Powers of officials generally.

4 Any law enforcement officer, or any person authorized to enforce
5 ~~subchapters 1-6 of~~ this chapter, or any employee of the State Health
6 Department designated by the director to conduct examinations,
7 investigations, or inspections under ~~subchapters 1-6 of~~ this chapter relating
8 to controlled substances or to counterfeit drugs may:

9 (1) Carry firearms in the performance of his official duties;

10 (2) Execute and serve search warrants, arrest warrants,
11 administrative inspection warrants, subpoenas, and summonses issued under the
12 authority of this state;

13 (3) Make arrests without warrant for any offense under
14 ~~subchapters 1-6 of~~ this chapter committed in his presence, or if he has
15 probable cause to believe that the person to be arrested has committed a
16 violation of ~~subchapters 1-6 of~~ this chapter which may constitute a felony;

17 (4) Make seizures of property pursuant to ~~subchapters 1-6 of~~
18 this chapter; or

19 (5) Perform other law enforcement duties as the director
20 designates.

21
22 5-64-502. Issuance and execution of inspection warrants.

23 (a) Issuance and execution of administrative inspection warrants shall
24 be as follows:

25 (1) A judge of a court of record, within his jurisdiction, and
26 upon proper oath or affirmation showing probable cause, may issue warrants
27 for the purpose of conducting administrative inspections authorized by
28 ~~subchapters 1-6 of~~ this chapter or rules hereunder, and seizures of property
29 appropriate to the inspections. For purposes of the issuance of
30 administrative inspection warrants, probable cause exists from showing a
31 valid public interest in the effective enforcement of ~~subchapters 1-6 of~~ this
32 chapter or rules hereunder, sufficient to justify administrative inspection
33 of the area, premises, building, or conveyance in the circumstances specified
34 in the application for the warrant;

35 (2) A warrant shall issue only upon an affidavit of a designated
36 officer or employee having knowledge of the facts alleged, sworn to before

1 the judge or magistrate and establishing the grounds for issuing the warrant.
2 If the judge or magistrate is satisfied that grounds for the application
3 exist or that there is probable cause to believe they exist, he shall issue a
4 warrant identifying the area, premises, building, or conveyance to be
5 inspected, the purpose of the inspection, and, if appropriate, the type of
6 property to be inspected, if any. The warrant shall:

7 ~~(i)~~(A) State the grounds for its issuance and the name of
8 each person whose affidavit has been taken in support thereof;

9 ~~(ii)~~(B) Be directed to a person authorized by § 5-64-501
10 to execute it;

11 ~~(iii)~~(C) Command the person to whom it is directed to
12 inspect the area, premises, building, or conveyance identified for the
13 purpose specified and, if appropriate, direct the seizure of the property
14 specified;

15 ~~(iv)~~(D) Identify the item or types of property to be
16 seized, if any; and

17 ~~(v)~~(E) Direct that it be served during normal business
18 hours and designate the judge or magistrate to whom it shall be returned;

19 (3) A warrant issued pursuant to this section must be executed
20 and returned within ten (10) days of its date unless, upon a showing of a
21 need for additional time, the court orders otherwise. If property is seized
22 pursuant to a warrant, a copy shall be given to the person from whom or from
23 whose premises the property is taken, together with a receipt for the
24 property taken. The return of the warrant shall be made promptly, accompanied
25 by a written inventory of any property taken. The inventory shall be made in
26 the presence of the person executing the warrant and of the person from whose
27 possession or premises the property was taken, if present, or in the presence
28 of at least one (1) credible person other than the person executing the
29 warrant. A copy of the inventory shall be delivered to the person from whom
30 or from whose premises the property was taken and to the applicant for the
31 warrant;

32 (4) The judge or magistrate who has issued a warrant shall
33 attach thereto a copy of the return and all papers returnable in connection
34 therewith and file them with the clerk of the circuit court of the county in
35 which the inspection was made.

36 (b) The director may make administrative inspections of controlled

1 premises in accordance with the following provisions:

2 (1) For purposes of this section only, "controlled premises"
3 means:

4 ~~(i)~~(A) Places where persons are required by state law to
5 keep records; and

6 ~~(ii)~~(B) Places including factories, warehouses,
7 establishments, and conveyances in which persons registered or exempted from
8 registration requirements under ~~subchapters 1-6~~ of this chapter are permitted
9 to hold, manufacture, compound, process, sell, deliver, or otherwise dispose
10 of any controlled substance.

11 (2) When authorized by an administrative inspection warrant
12 issued pursuant to subsection (a) of this section an officer or employee
13 designated by the director, upon presenting the warrant and appropriate
14 credentials to the owner, operator, or agent in charge, may enter controlled
15 premises for the purpose of conducting an administrative inspection.

16 (3) When authorized by an administrative inspection warrant, an
17 officer or employee designated by the director may:

18 ~~(i)~~(A) Inspect and copy records required by ~~subchapters 1-~~
19 ~~6~~ of this chapter to be kept;

20 ~~(ii)~~(B) Inspect, within reasonable limits and in a
21 reasonable manner, controlled premises and all pertinent equipment, finished
22 and unfinished material, containers and labeling found therein, and, except
23 as provided in subsection (b)(5) of this section, all other things therein,
24 including records, files, papers, processes, controls, and facilities bearing
25 on violation of ~~subchapters 1-6~~ of this chapter; and

26 ~~(iii)~~(C) Inventory any stock of any controlled substance
27 therein and obtain samples thereof;

28 (4) This section does not prevent the inspection without a
29 warrant of books and records pursuant to an administrative subpoena, nor does
30 it prevent entries and administrative inspections, including seizures of
31 property, without a warrant:

32 ~~(i)~~(A) If the owner, operator, or agent in charge of the
33 controlled premises consents;

34 ~~(ii)~~(B) In situations presenting imminent danger to health
35 or safety;

36 ~~(iii)~~(C) In situations involving inspection of conveyances

1 if there is reasonable cause to believe that the mobility of the conveyance
2 makes it impracticable to obtain a warrant;

3 ~~(iv)~~(D) In any other exceptional or emergency circumstance
4 where time or opportunity to apply for a warrant is lacking; or

5 ~~(v)~~(E) In all other situations in which a warrant is not
6 constitutionally required.

7 (5) An inspection authorized by this section shall not extend to
8 financial data, sales data, other than shipment data, or pricing data unless
9 the owner, operator, or agent in charge of the controlled premises consents
10 in writing.

11
12 SECTION 309. Arkansas Code § 5-64-504 is amended to read as follows:

13 5-64-504. Intergovernmental cooperation - Identities of patients and
14 research subjects.

15 (a) The director shall cooperate with federal and other state agencies
16 in discharging its responsibilities concerning traffic in controlled
17 substances and in suppressing the abuse of controlled substances. To this
18 end, he or she may:

19 (1) Arrange for the exchange of information among governmental
20 officials concerning the use and abuse of controlled substances;

21 (2) Coordinate and cooperate in training programs concerning
22 controlled substance law enforcement at local and state levels;

23 (3) Cooperate with the Bureau by establishing a centralized unit
24 to accept, catalogue, file, and collect statistics, including records of drug
25 dependent persons and other controlled substance law offenders within the
26 state, and make the information available for federal, state, and local law
27 enforcement purposes. He or she shall not furnish the name or identity of a
28 patient or research subject whose identity could not be obtained under
29 subsection (c) of this section; and

30 (4) Conduct programs of eradication aimed at destroying wild or
31 illicit growth of plant species from which controlled substances may be
32 extracted.

33 (b) Results, information, and evidence received from the Bureau
34 relating to the regulatory functions of ~~subchapters 1-6 of~~ this chapter,
35 including results of inspections conducted by it, may be relied and acted
36 upon by the director in the exercise of its regulatory functions under

1 ~~subchapters 1-6~~ of this chapter.

2 (c) A practitioner engaged in medical practice or research is not
3 required or compelled to furnish the name or identity of a patient or
4 research subject to the director nor may he or she be compelled in any state
5 or local civil, criminal, administrative, legislative, or other proceedings
6 to furnish the name or identity of an individual that the practitioner is
7 obligated to keep confidential.

8

9 SECTION 310. Arkansas Code § 5-64-505(i), concerning the disposition
10 of moneys received from sales of forfeited property, is amended to read as
11 follows:

12 (i) Disposition of moneys received. Subject to the provisions of
13 subdivision (f)(5) of this section, the proceeds of sales conducted pursuant
14 to subdivision (h)(1)(B) of this section and all moneys forfeited or obtained
15 by judgment or settlement pursuant to this chapter shall be deposited and
16 distributed in the manner set forth in this subsection. Moneys received from
17 federal forfeitures shall be deposited and distributed pursuant to
18 subdivision (i)(4) of this section.

19 (1) Asset Forfeiture Fund.

20 (A) The proceeds of any sale and any moneys forfeited or
21 obtained by judgment or settlement under this chapter shall be deposited in
22 the asset forfeiture fund of the prosecuting attorney and shall be subject to
23 the following provisions:

24 (i) If, during a calendar year, the aggregate amount
25 of moneys deposited in the asset forfeiture fund exceeds twenty thousand
26 dollars (\$20,000) per county, the prosecuting attorney shall, within fourteen
27 (14) days of that time, notify the circuit judges in the judicial district
28 and the Arkansas Drug Director;

29 (ii) Subsequent to the notification set forth in
30 subdivision (i)(1)(A)(i) of this section, twenty percent (20%) of the
31 proceeds of any additional sale and any additional moneys forfeited or
32 obtained by judgment or settlement under this chapter in the same calendar
33 year shall be deposited into the State Treasury as special revenues to be
34 credited to the Crime Lab Equipment Fund, and the remainder shall be
35 deposited in the asset forfeiture fund of the prosecuting attorney;

36 (iii) Failure by the prosecuting attorney to comply

1 with the notification requirement set forth in subdivision (i)(1)(A)(i) of
2 this section shall render the prosecuting attorney and any entity eligible to
3 receive forfeited moneys or property from the prosecuting attorney ineligible
4 to receive such moneys or property, except as provided in subdivision
5 (f)(5)(A) of this section; and

6 (iv) Twenty percent (20%) of any moneys in excess of
7 twenty thousand dollars (\$20,000) that have been retained but not reported as
8 required by subdivision (i)(1)(A)(i) of this section shall be subject to
9 recovery for deposit into the Crime Lab Equipment Fund.

10 (B) The prosecuting attorney shall administer expenditures
11 from the fund which shall be subject to audit by the Division of Legislative
12 Audit. Moneys distributed from this fund must only be used for law
13 enforcement and prosecutorial purposes. Moneys in the fund must be
14 distributed in the following order:

15 (i) For satisfaction of any bona fide security
16 interest or lien;

17 (ii) For payment of all proper expenses of the
18 proceedings for forfeiture and sale, including expenses of seizure,
19 maintenance of custody, advertising, and court costs;

20 (iii) Any balance under two hundred fifty thousand
21 dollars (\$250,000) shall be distributed proportionally so as to reflect
22 generally the contribution of the appropriate local or state law enforcement
23 or prosecutorial agency's participation in any of the activities that led to
24 the seizure or forfeiture of the property or deposit of moneys under this
25 chapter; and

26 (iv) Any balance over two hundred fifty thousand
27 dollars (\$250,000) shall be forwarded to the Arkansas Drug Director to be
28 transferred to the State Treasury for deposit in the Special State Assets
29 Forfeiture Fund for distribution as provided in subdivision (i)(3) of this
30 section.

31 (C)(i) For forfeitures in an amount greater than two
32 hundred and fifty thousand dollars (\$250,000) from which expenses are paid
33 for the proceedings for forfeiture and sale, under subdivision (i)(1)(B)(ii)
34 of this section, an itemized accounting of the expenses shall be delivered to
35 the Arkansas Drug Director within ten (10) calendar days after the
36 distribution of the funds.

1 (ii) The itemized accounting shall include the
2 expenses paid, to whom paid, and for what purposes the expenses were paid.

3 (2) Drug Control Fund.

4 (A) There is created on the books of law enforcement
5 agencies and prosecuting attorneys a Drug Control Fund. The Drug Control Fund
6 shall consist of all moneys obtained under subdivision (i)(1) of this section
7 and other revenues as may be provided by law or ordinance. Moneys from the
8 fund may not supplant other local, state, or federal funds. Moneys in this
9 fund are appropriated on a continuing basis and are not subject to the
10 Revenue Stabilization Law, § 19-5-101 et seq. Moneys in this fund must only
11 be used for law enforcement and prosecutorial purposes. The fund is subject
12 to audit by the Division of Legislative Audit.

13 (B) The law enforcement agencies and prosecuting attorneys
14 shall submit to the Arkansas Drug Director on or before January 1 and July 1
15 of each year a report detailing all moneys received and expenditures made
16 from the Drug Control Fund during the preceding six-month period.

17 (3) Special State Assets Forfeiture Fund.

18 (A) There is created and established on the books of the
19 Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the
20 State a fund to be known as the Special State Assets Forfeiture Fund.

21 (B) The Special State Assets Forfeiture Fund shall consist
22 of revenues obtained under subdivision (i)(1)(B)(iv) of this section and any
23 other revenues as may be provided by law. Moneys from the fund may not
24 supplant other local, state, or federal funds.

25 (C) This fund shall not be subject to the provisions of
26 the Revenue Stabilization Law, § 19-5-101 et seq., or the Special Revenue
27 Fund Account, § 19-5-203(b)(2)(A).

28 (D) The Arkansas Drug Director shall establish through
29 rules and regulations a procedure for proper investment, use, and disposition
30 of moneys deposited in the Special State Assets Forfeiture Fund in accordance
31 with the intent and purposes of ~~subchapters 1-6 of~~ this chapter. Moneys in
32 this fund shall be distributed by the Arkansas Alcohol and Drug Abuse
33 Coordinating Council and shall be distributed for drug interdiction,
34 eradication, education, rehabilitation, the State Crime Laboratory, and drug
35 courts.

36 (4) Federal forfeitures.

1 (A) All moneys received by prosecuting attorneys and law
2 enforcement agencies from federal forfeitures shall be deposited and
3 maintained in a separate account, provided that any balance over two hundred
4 fifty thousand dollars (\$250,000) shall be distributed as set forth in
5 subdivision (i)(4)(B) of this section. No other moneys may be maintained in
6 such account except for any interest income generated by such account. Moneys
7 in this account must only be used for law enforcement and prosecutorial
8 purposes consistent with governing federal law. Such accounts shall be
9 subject to audit by the Division of Legislative Audit.

10 (B) Any balance over two hundred fifty thousand dollars
11 (\$250,000) shall be forwarded to the Arkansas Drug Director to be transferred
12 to the State Treasury for deposit in the Special State Assets Forfeiture Fund
13 where it shall be maintained separately and distributed consistent with
14 governing federal law.

15
16 SECTION 311. Arkansas Code §§ 5-64-506 – 5-64-508 are amended to read
17 as follows:

18 5-64-506. Burden of proof - Liability of officers.

19 (a) It is not necessary for the state to negate any exemption or
20 exception in ~~subchapters 1-6~~ of this chapter in any complaint, information,
21 indictment, or other pleading or in any trial, hearing, or other proceeding
22 under ~~subchapters 1-6~~ of this chapter. The burden of proof of any exemption
23 or exception is upon the person claiming it.

24 (b) In the absence of proof that a person is the duly authorized
25 holder of an appropriate registration or order form issued under ~~subchapters~~
26 ~~1-6~~ of this chapter, he or she is presumed not to be the holder of the
27 registration or form. The burden of proof is upon him or her to rebut the
28 presumption.

29 (c) No liability is imposed by ~~subchapters 1-6~~ of this chapter upon
30 any authorized state, county, or municipal officer, engaged in the lawful
31 performance of his duties.

32
33 5-64-507. Conclusiveness of findings.

34 All final determinations, findings, and conclusions of the director
35 under ~~subchapters 1-6~~ of this chapter are final and conclusive decisions of
36 the matters involved. Any person aggrieved by the decision may obtain review

1 of the decision in the circuit court of the county. Findings of fact by the
2 director, if supported by substantial evidence, are conclusive.

3
4 5-64-508. Prevention and deterrence - Educational and research
5 programs.

6 (a) The Director of the Arkansas Office on Alcohol and Drug Abuse
7 Prevention shall carry out educational programs designed to prevent and deter
8 misuse and abuse of controlled substances. In connection with these programs
9 he or she may:

10 (1) Promote better recognition of the problems of misuse and
11 abuse of controlled substances within the regulated industry and among
12 interested groups and organizations;

13 (2) Assist the regulated industry and interested groups and
14 organizations in contributing to the reduction of misuse and abuse of
15 controlled substances;

16 (3) Consult with interested groups and organizations to aid them
17 in solving administrative and organizational problems;

18 (4) Evaluate procedures, projects, techniques, and controls
19 conducted or proposed as part of educational programs on misuse and abuse of
20 controlled substances;

21 (5) Disseminate the results of research on misuse and abuse of
22 controlled substances to promote a better public understanding of what
23 problems exist and what can be done to combat them; and

24 (6) Assist in the education and training of state and local law
25 enforcement officials in their efforts to control misuse and abuse of
26 controlled substances.

27 (b) The Director of the Arkansas Office on Alcohol and Drug Abuse
28 Prevention shall encourage research on misuse and abuse of controlled
29 substances. In connection with the research, and in furtherance of the
30 enforcement of ~~subchapters 1-6~~ of this chapter, he or she may:

31 (1) Establish methods to assess accurately the effects of
32 controlled substances and identify and characterize those with potential for
33 abuse;

34 (2) Make studies and undertake programs of research to:

35 ~~(i)~~(A) Develop new or improved approaches, techniques,
36 systems, equipment, and devices to strengthen the enforcement of ~~subchapters~~

1 ~~1-6~~ of this chapter;

2 ~~(ii)~~(B) Determine patterns of misuse and abuse of
3 controlled substances and the social effects thereof; and

4 ~~(iii)~~(C) Improve methods for preventing, predicting,
5 understanding, and dealing with the misuse and abuse of controlled
6 substances; and

7 (3) Enter into contracts with public agencies, institutions of
8 higher education, and private organizations or individuals for the purpose of
9 conducting research, demonstrations, or special projects which bear directly
10 on misuse and abuse of controlled substances.

11 (c) The Director of the Arkansas Office on Alcohol and Drug Abuse
12 Prevention may enter into contracts for educational and research activities
13 without performance bonds.

14 (d) The commissioner may authorize persons engaged in research on the
15 use and effects of controlled substances to withhold the names and other
16 identifying characteristics of individuals who are the subjects of the
17 research. Persons who obtain this authorization are not compelled in any
18 civil, criminal, administrative, legislative, or other proceeding to identify
19 the individuals who are the subjects of research for which the authorization
20 was obtained.

21 (e) The commissioner may authorize the possession and distribution of
22 controlled substances by persons engaged in research. Persons who obtain this
23 authorization are exempt from state prosecution for possession and
24 distribution of controlled substances to the extent of the authorization.

25

26 SECTION 312. Arkansas Code §§ 5-64-702 and 5-64-703 are amended to
27 read as follows:

28 5-64-702. Promulgation of rules and regulations.

29 (a) The Arkansas Department of Health may promulgate rules and
30 regulations necessary for the enforcement of ~~the Uniform Controlled~~
31 ~~Substances Act, as amended, subchapters 1-6 of this chapter.~~

32 (b) Such rules and regulations shall be promulgated pursuant to the
33 Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq.

34

35 5-64-703. Authority to make inspections.

36 In carrying out the functions under ~~subchapters 1-6 of this chapter,~~

1 the Director of the Arkansas Department of Health, or his duly authorized
2 agent, is authorized to enter controlled premises and conduct administrative
3 inspections thereof.

4
5 SECTION 313. Arkansas Code §§ 5-64-705 – 5-64-708 are amended to read
6 as follows:

7 5-64-705. Authority to investigate and arrest in contiguous county.

8 Upon receiving permission from the proper county sheriff, any law
9 enforcement officer acting within the official scope of his duty may
10 investigate and arrest any person violating any provision of ~~the Uniform~~
11 ~~Controlled Substances Act, as amended, subchapters 1-6~~ of this chapter, in
12 any county contiguous to the county in which he is employed.

13
14 5-64-706. Grant of immunity.

15 (a) The prosecuting attorney of any judicial district in this state or
16 any grand jury properly convened according to law, with the approval of the
17 circuit judge, shall have the authority to grant immunity from criminal
18 prosecution with respect to matters revealed by the testimony of anyone
19 giving evidence concerning a violation of ~~the Uniform Controlled Substances~~
20 ~~Act, subchapters 1-6~~ of this chapter. However, immunity shall not extend to
21 perjury committed in the testimony.

22 (b) No prosecuting attorney shall grant immunity until he has applied
23 for and obtained in each case a written order from the judge of the circuit
24 court approving the grant of immunity.

25 (c) No such immunity shall be granted by a prosecuting attorney until
26 after the individual has declined to answer questions, or has requested
27 immunity before answering questions.

28
29 5-64-707. Admissibility of drug analysis - Cross-examination.

30 (a) In any criminal prosecution for an alleged violation of
31 ~~subchapters 1-6~~ of this chapter, records and reports of any relevant drug
32 analysis made by the Arkansas Department of Health, Bureau of Environmental
33 Health Services, Division of Environmental Services, Drug Laboratory, shall
34 be received as competent evidence as to matters contained therein in any
35 preliminary hearing when attested to by the Director of the Department of
36 Health, his or her assistants or deputies.

1 (b)(1) Nothing herein shall abrogate the defendant's right of cross-
2 examination.

3 (2) In the event the defendant desires to cross-examine the
4 Director of the Department of Health or the appropriate assistant or deputy,
5 the defendant may compel the Director of the Department of Health or his or
6 her appropriate assistant or deputy to attend court by the issuance of a
7 proper subpoena.

8 (3) In that event, the records and reports shall only be
9 admissible through the Director of the Department of Health or the
10 appropriate assistant or deputy, who shall be subject to cross-examination by
11 the defendant or his or her counsel.

12
13 5-64-708. Local funding for undercover work.

14 Any municipality or county may allocate and expend funds for undercover
15 work done in connection with attempts to apprehend violators of ~~the Uniform~~
16 ~~Controlled Substances Act, subchapters 1-6 of this chapter,~~ or for purchases
17 of a controlled substance when purchased by a law enforcement officer for the
18 purpose of apprehending violators.

19
20 SECTION 314. Arkansas Code § 5-64-710 is amended to read as follows:

21 5-64-710. Denial of driving privileges for minor - Restricted permit.

22 (a) As used in this section:

23 (1) "Drug offense" means the possession, distribution,
24 manufacture, cultivation, sale, transfer, or the attempt or conspiracy to
25 possess, distribute, manufacture, cultivate, sell, or transfer any substance
26 the possession of which is prohibited under ~~the Uniform Controlled Substances~~
27 ~~Act, § 5-64-101 et seq.~~ this chapter, or the operation of a motor vehicle
28 under the influence of such a substance;

29 (2) "Substance, the possession of which is prohibited under the
30 Uniform Controlled Substances Act" or "substance", as such phrase and term
31 are utilized in subdivision (a)(1) of this section, means a controlled or
32 counterfeit chemical, as those terms are defined in subsections 102(6) and
33 (7) of the Comprehensive Drug Abuse Prevention and Control Act of 1970; and

34 (3) "Motor vehicle", as such term is utilized in subdivision
35 (a)(1) of this section, means any vehicle which is self-propelled by which
36 persons or things may be transported upon a public highway and is registered

1 in the State of Arkansas or of the type subject to registration in Arkansas,
2 provided, such term shall also mean and include any "motorcycle", "motor-
3 driven cycle", or "motorized bicycle", as such terms are defined in § 27-20-
4 101 and any "commercial motor vehicle" as defined in § 27-23-103.

5 (b)(1)(A) Whenever a person who is less than eighteen (18) years of
6 age pleads guilty or nolo contendere to, or is found guilty of, driving while
7 intoxicated under § 5-65-101 et seq., or of any criminal offense involving
8 the illegal possession or use of controlled substances, or of any drug
9 offense, in this state or any other state, or is found by a juvenile court to
10 have committed such an offense, the court having jurisdiction of such matter,
11 including any federal court, shall prepare and transmit to the Department of
12 Finance and Administration an order of denial of driving privileges for the
13 minor.

14 (B) Courts within the State of Arkansas shall prepare and
15 transmit all such orders within twenty-four (24) hours after the plea or
16 finding to the department.

17 (C) Courts outside Arkansas having jurisdiction over any
18 such person holding driving privileges issued by the State of Arkansas shall
19 prepare and transmit such orders pursuant to agreements or arrangements
20 entered into between that state and the Director of the Department of Finance
21 and Administration.

22 (D) Such arrangements or agreements may also provide for
23 the forwarding by the department of orders issued by courts within this state
24 to the state wherein any such person holds driving privileges issued by that
25 state.

26 (2) For any such person holding driving privileges issued by the
27 State of Arkansas, courts within this state in cases of extreme and unusual
28 hardship may provide in an order for the issuance of a restricted driving
29 permit to allow driving to and from a place of employment or driving to and
30 from school.

31 (c) Penalties prescribed in this section and § 27-16-914 shall be in
32 addition to all other penalties prescribed by law for the offenses covered by
33 this section and § 27-16-914.

34 (d) In regard to any offense involving illegal possession under this
35 section, it shall be a defense if the controlled substance is the property of
36 an adult who owns the vehicle.

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SECTION 315. Arkansas Code § 16-43-206 is amended to read as follows:

16-43-206. ~~Punishment for contempt~~ Discharge of contempt order.

~~(a) Disobedience of a subpoena or a refusal to be sworn or to answer as a witness or to subscribe an affidavit or deposition when lawfully ordered may be punished as a contempt of the court or officer by whom the attendance or testimony is required.~~

~~(b) The punishment for the contempt provided in subsection (a) of this section shall be by a fine not exceeding thirty dollars (\$30.00) and imprisonment not exceeding twenty four (24) hours. But in case of the refusal of a witness to testify or be sworn or to give a deposition, he shall continue to be imprisoned so long as he refuses. If the court finally adjourns before he submits, he shall remain imprisoned until the next term. The final disposition of the case in which he so refuses shall discharge him from imprisonment.~~

~~(c) A witness imprisoned or fined for contempt by an officer before whom his or her deposition is being taken may apply to the circuit judge, who shall have power to discharge the witness if it appears that the imprisonment is illegal.~~

~~(d) Every warrant of commitment to prison issued by a court or an officer pursuant to this section must specify particularly the cause of commitment. Every warrant to arrest or commit a witness must be directed to the sheriff of the county where the witness may be located and must be executed in the same manner as process from the court.~~

SECTION 316. Arkansas Code § 5-51-306 is amended to read as follows:

5-51-306. Questioning and detaining suspected persons.

~~(a) It shall not be lawful for any private employees acting as watchmen, guards, or in a supervisory capacity, or any individual, partnership, association, or corporation engaged in the manufacture, production, transportation, or storage of any article or thing described in § 5-51-303 to arrest or detain any person found on any premises to which entry without permission is forbidden by § 5-51-305.~~

~~(b) All arrests under § 5-51-301 shall be made by regularly elected peace officers and upon warrants issued by a court of competent jurisdiction or where the crime is committed by such offender within the presence of said~~

1 ~~peace officer.~~

2 ~~(c) The person so arrested shall be immediately brought before a court~~
3 ~~or magistrate having jurisdiction of the crime and admitted to bail as in~~
4 ~~other cases.~~

5
6 SECTION 317. Arkansas Code § 16-85-403 is amended to read as follows:
7 16-85-403. Contents.

8 (a)(1) The language of the indictment must be certain as to the title
9 of the prosecution, the name of the court in which the indictment is
10 presented, and the name of the parties.

11 ~~(1) It shall not be necessary to include a statement of the act~~
12 ~~or acts constituting the offense, unless the offense cannot be charged~~
13 ~~without doing so.~~

14 ~~(2) Nor shall it be necessary to allege that the act or acts~~
15 ~~constituting the offense were done willfully, unlawfully, feloniously,~~
16 ~~maliciously, deliberately, or with premeditation, but the name of the offense~~
17 ~~charged in the indictment shall carry with it all such allegations.~~

18 ~~(3)~~(2) The state, upon request of the defendant, shall file a
19 bill of particulars setting out the act or acts upon which it relies for
20 conviction.

21 (b) An indictment may be substantially in the following form:

22 "The State of Arkansas,
23 vs. In the Pulaski Circuit Court.
24 John Doe.

25 The grand jury of Pulaski County, in the name and by the authority of
26 the State of Arkansas, accuse John Doe of the crime of murder in the first
27 degree (or other crime, as the case may be), committed as follows: The said
28 John Doe, on January 1, 1936, in Pulaski County, did murder Richard Roe,
29 against the peace and dignity of the State of Arkansas."

30 (c) The indictment must be direct and certain as regards:

- 31 (1) The party charged;
32 (2) The offense or offenses charged;
33 (3) The county in which the offense ~~was~~ or offenses were
34 committed; and
35 (4) The particular circumstances of the offense or offenses
36 charged where they are necessary to constitute a complete offense or

1 offenses.

2
3 SECTION 318. Arkansas Code § 16-85-405 is amended to read as follows:

4 16-85-405. Sufficiency and errors.

5 (a)(1) The indictment is sufficient if it can be understood from it:

6 (A) That it was found by a grand jury of a county,
7 impaneled in a court having authority to receive ~~it, though the name of the~~
8 ~~court is not accurately stated;~~ it;

9 (B) That the offense was committed within the jurisdiction
10 of the court and at some time prior to the time of finding the indictment;
11 and

12 (C) That the act or omission, charged as the offense, is
13 stated with such a degree of certainty so as to satisfy due process of law ~~as~~
14 ~~to enable the court to pronounce judgment on conviction, according to the~~
15 ~~right of the case.~~

16 (2) No indictment is insufficient, nor can the trial, judgment,
17 or other proceeding thereon be affected, by reason of any defect which does
18 not ~~tend to the prejudice of~~ prejudice the substantial rights of the
19 defendant ~~on the merit.~~

20 (b) An error as to the name of the defendant shall not vitiate the
21 indictment or proceedings thereon, and if his or her true name is discovered
22 at any time before execution of the indictment, an entry shall be made on the
23 ~~minutes~~ docket of the court of his or her true name, referring to the fact of
24 his or her being indicted by the name mentioned in the indictment, and the
25 subsequent proceedings shall be in the true ~~name, substantially as follows:~~
26 name.

27 ~~"The State of Arkansas~~

28 ~~against~~

29 ~~A. B., indicted by the name of C. D."~~

30 ~~(c) Where an offense involves the commission of or an attempt to~~
31 ~~commit an injury to person or property and is described in other respects~~
32 ~~with sufficient certainty to identify the act, then an erroneous allegation~~
33 ~~as to the person injured, or attempted to be injured, is not material.~~

34 ~~(d)~~(c) The statement in the indictment as to the time at which the
35 offense was committed is not material ~~further than~~ except as a statement that
36 it was committed before the time of finding the indictment, except where the

1 time is a material ingredient in the offense.

2 ~~(e) If the indictment contains no statement of the place in which the~~
3 ~~offense was committed, it shall be considered as charged therein that it was~~
4 ~~committed in the local limits of the jurisdiction of the court in which the~~
5 ~~grand jury was impaneled.~~

6 ~~(f) Neither presumptions of law nor matters of which judicial notice~~
7 ~~is taken need be stated in an indictment.~~

8 ~~(g) In pleading a judgment or other determination of or proceeding~~
9 ~~before a court or officer of special jurisdiction, it is not necessary to~~
10 ~~state the facts conferring jurisdiction, but the judgment, determination, or~~
11 ~~proceedings may be stated to have been duly given or made. Where it is~~
12 ~~necessary to prove the statement on the trial, the facts conferring the~~
13 ~~jurisdiction must be established.~~

14 ~~(h) An indictment for libel need not set forth any extrinsic facts for~~
15 ~~the purpose of showing the application of the defamatory matter to the party~~
16 ~~libeled; but it is sufficient to state generally that the defamatory matter~~
17 ~~was published concerning him.~~

18 ~~(i) When a written instrument which is the subject of an indictment~~
19 ~~for forgery, larceny, or other offense has been withheld or destroyed by the~~
20 ~~act or procurement of the defendant, and such destruction or withholding is~~
21 ~~alleged in the indictment and proved on the trial, a misdescription of the~~
22 ~~instrument is immaterial.~~

23 ~~(j) In an indictment for perjury, it is not necessary to set forth the~~
24 ~~pleadings, record, or proceedings with which the oath is connected so that~~
25 ~~the substance of the controversy or matters in respect to which the offense~~
26 ~~was committed is properly stated; nor is it necessary to set forth the~~
27 ~~commission or authority of the court or person before whom the oath alleged~~
28 ~~to be false was taken, but it is sufficient that it be stated in what court,~~
29 ~~or before whom, it was taken, and that the court or person was authorized to~~
30 ~~administer the oath.~~

31 ~~(k)(d)~~ The words used in a statute to define an offense need not be
32 strictly pursued in an indictment, but other words conveying the same meaning
33 may be used.

34
35 SECTION 319. Arkansas Code § 16-85-503 is amended to read as follows:
36 16-85-503. Scope of inquiry.

1 (a) The grand jury must inquire:

2 (1) Into the case of every person imprisoned in the county jail
3 or ~~on bail to answer a criminal charge in that court who is not indicted~~
4 detention facility or on bail who has not been charged by indictment or
5 information within sixty (60) days of arrest;

6 (2) Into the condition and management of the public prisons of
7 the county; and

8 (3) Into the willful and corrupt misconduct in office of public
9 officers of every description in the county.

10 (b) The grand jury ~~has power, and it is their duty, to~~ may inquire
11 into all public offenses committed within the jurisdiction of the court in
12 which they are impaneled and to indict such persons as they find guilty
13 thereof.

14 (c) If a member of the grand jury knows, or has reason to believe,
15 that a public offense has been committed within the jurisdiction of the
16 court, he or she must disclose the knowledge or belief to his or her fellow
17 jurors, who must thereupon investigate the offense.

18 (d) Grand jurors are entitled to free access, at all reasonable times,
19 to public prisons and to the examination, without charge, of all public
20 records in the county.

21 (e) It is the duty of every grand jury at each term of the circuit
22 court to make careful examination of the condition of the accounts of the
23 collecting officers of the county, ~~dockets of justices of the peace,~~ and any
24 matters relating to the general school fund.

25
26 SECTION 320. Arkansas Code § 16-85-511 is amended to read as follows:

27 16-85-511. Evidence.

28 ~~The grand jury can receive none but legal evidence. They are~~ The grand
29 jury is not bound to hear evidence for the defendant, but it is their duty to
30 weigh all the evidence before them. If they believe that other evidence
31 ~~within their reach~~ will explain away the charge, they should order the
32 evidence to be produced.

33
34 SECTION 321. Arkansas Code § 16-85-602 is amended to read as follows:

35 16-85-602. Order of court upon indictment.

36 Upon an indictment being found, if the defendant is not in custody, or

1 on bail, the court shall forthwith make an order for process to be issued on
2 the indictment, designating whether it shall be for arresting or summoning
3 the ~~defendant; and, if it is for arresting the defendant and the offense~~
4 ~~charged is bailable, the sum in which he may be admitted to bail shall be~~
5 ~~fixed~~ defendant.

6
7 SECTION 322. Arkansas Code § 16-85-706 is amended to read as follows:
8 16-85-706. Motion to set aside indictment.

9 (a) The motion to set aside the indictment can only be made on the
10 following grounds:

11 (1) A substantial error in the summoning or formation of the
12 grand jury;

13 (2) That some person other than the grand jurors was present
14 before the grand jury when they finally acted upon the indictment; and

15 (3) That the indictment was not found and presented as required
16 by this code.

17 (b) If the motion is sustained, the court shall make an order that the
18 case be submitted to another grand jury, to be assembled at that or the next
19 term of the court. ~~The defendant, if in custody, shall be remanded to jail,~~
20 ~~or if he is on bail, the bail shall be liable for the defendant's appearance~~
21 ~~to answer a new indictment, if one is found.~~

22 ~~(c) Unless, however, a new indictment is found before the final~~
23 ~~discharge of the next grand jury, the defendant shall be discharged from~~
24 ~~eustody or bail, unless for good cause shown the court shall otherwise order.~~

25 ~~(d) If the motion is overruled, the defendant shall be required to~~
26 ~~plead to the indictment.~~

27
28 SECTION 323. Arkansas Code § 16-85-709 is amended to read as follows:
29 16-85-709. Pleas generally.

30 There are but ~~four (4)~~ three (3) kinds of pleas to an indictment or
31 information:

32 (1) A plea of guilty;

33 (2) A plea of nolo contendere; or

34 (3) A plea of not ~~guilty;~~ guilty.

35 ~~(4) A plea of former conviction or acquittal of the offense~~
36 ~~charged, which may be placed with or without the plea of not guilty.~~

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SECTION 324. Arkansas Code § 16-93-103 is amended to read as follows:

16-93-103. Authority of officers to make arrests and carry firearms.

(a) All probation officers appointed by a court, excluding juvenile probation officers, whether circuit or district, and all parole and probation officers employed by the Department of Community Correction who are currently certified law enforcement officers may execute, serve, and return all lawful warrants of arrest issued by the State of Arkansas or any political subdivision thereof and are otherwise authorized to make lawful arrests as any law enforcement officers of the State of Arkansas.

(b) All such parole and probation officers are further authorized to carry firearms during all hours in which they are actively pursuing the obligations and duties of the office to which they are appointed or employed, pursuant to selection and training requirements under §§ 12-9-104, 12-9-106, and 12-9-107.

(c) All such parole and probation officers are further authorized to carry non-state-issued firearms during all hours in which they are not actively pursuing the obligations and duties of the office to which they are appointed or employed, pursuant to the restrictions in § 5-73-306 employed.

SECTION 325. Arkansas Code § 16-96-401 is amended to read as follows:

16-96-401. Collection and payment.

(a) All justices of the peace are prohibited from collecting fines, penalties, and forfeitures, but that duty shall devolve upon sheriffs and constables exclusively forfeitures.

(b) All constables or other collecting officers of any township shall, quarterly on the first Mondays in July, October, January, and April, turn over to the county treasurer of their respective counties all fines, penalties, and forfeitures, less the commission due the officers, which shall be three percent (3%) for constables on the amount collected by them, taking duplicate receipts therefor, one of which shall be immediately filed with the clerk of the county court of their respective counties.

(c)(1) On or before the first Mondays of July, October, January, and April of each year, the clerks of the county courts shall audit the accounts of constables and other collecting officers referred to in subsection (b) of this section. To that end, the clerks of the county courts shall open a

1 separate account with each of the officers in a book to be kept by the clerks
2 for that purpose.

3 (2) They shall charge the collecting officer with the amount of
4 fines, penalties, and forfeitures adjudged against defendants in justices or
5 other courts in the county, excepting only circuit courts, as shown by the
6 transcript of the judicial officers on file in the offices of the clerks of
7 the county courts.

8 (d) The clerks of the county courts shall further charge the county
9 treasurer with all fines, penalties, and forfeitures turned over by
10 constables and other collecting officers in pursuance of the provisions of
11 this section.

12 (e)(1) The constables and other collecting officers shall not be
13 credited with any deficits as to fines and penalties unless they shall be
14 able to show the death of the party against whom the fine or penalty was
15 adjudged, or that imprisonment in default of the payment of fine has been
16 complied with in accordance with the provisions of the criminal law.

17 (2) The constables and other collecting officers shall not be
18 credited with any deficit on forfeited bail bonds or recognizances unless the
19 return of the officer serving the execution in the case shall show that the
20 defendant had no property subject to execution. In that case, a certified
21 copy of the return shall be filed with the clerk of the county court by the
22 officer charged with the collection.

23 (f)(1) The clerk of the county court shall, at the commencement of
24 each session of the circuit court of his county, furnish the prosecuting
25 attorney with a written statement of all deficits of constables and other
26 collecting officers on account of fines, penalties, and forfeitures.

27 (2) It shall be the duty of the prosecuting attorney to bring
28 suit against the constables and collecting officers and their securities for
29 the deficiency due and also to prosecute the officers by indictment for
30 malfeasance in office.

31

32 SECTION 326. Arkansas Code § 23-14-104 is amended to read as follows:
33 23-14-104. Penalties.

34 Every person, including any officer, agent, or employee of a
35 corporation, ~~who violates, procures, aids, or abets in the violation of who~~
36 violates any provision of this chapter or fails to comply with any order,

1 decision, or regulation issued by the Arkansas Transportation Commission
2 [abolished] shall be guilty of a Class A misdemeanor ~~and upon conviction~~
3 ~~shall be punishable by a fine of not to exceed one thousand dollars (\$1,000)~~
4 ~~or by imprisonment in the county jail not to exceed one (1) year, or both.~~
5 Every day's violation of this chapter or any of the terms or conditions of
6 any such order, decision, or regulation shall constitute a separate offense.
7

8 SECTION 327. Arkansas Code § 5-39-401 is amended to read as follows:
9 5-39-401. Destruction or removal.

10 (a) It is unlawful for any person to destroy or carry away any
11 cemetery marker or grave marker.

12 (b) Destruction or removal is a Class D felony.
13

14 SECTION 328. Arkansas Code § 5-52-101 is amended to read as follows:
15 5-52-101. ~~Trading in public office~~ Abuse of public trust.

16 (a) A person commits the offense of ~~trading in public office~~ abuse of
17 public trust if:

18 (1) He or she solicits, accepts, or agrees to accept on behalf
19 of any person, political party, or other organization any benefit from
20 another person upon an agreement or understanding that the other person will
21 or may be appointed a public servant or designated or nominated as a
22 candidate for public office; ~~or~~

23 (2) He or she offers, confers, or agrees to confer any benefit,
24 the receipt of which is prohibited by this ~~section,~~ section;

25 (3) He or she solicits, accepts, or agrees to accept any benefit
26 as compensation or consideration for having as a public servant given a
27 decision, opinion, recommendation, or vote favorable to another or for having
28 otherwise exercised his or her discretion in favor of another; or

29 (4) He or she offers, confers, or agrees to confer any benefit
30 upon a public servant, the receipt of which is prohibited by this section.

31 (b) It is not a defense to a prosecution under this section that the
32 decision, opinion, recommendation, vote, or use of discretion, except for the
33 benefit, was otherwise proper.

34 ~~(b)(c) Trading in public office is a Class A misdemeanor~~ Abuse of
35 public trust is a Class D felony.
36

1 SECTION 329. Arkansas Code § 5-54-115 is amended to read as follows:

2 5-54-115. ~~Permitting unauthorized departure~~ Permitting escape or
3 unauthorized departure in the second degree.

4 ~~(a) A public servant responsible for supervision of persons detained~~
5 ~~in the Arkansas State Hospital, in a juvenile detention facility, or in a~~
6 ~~youth services facility commits the offense of permitting unauthorized~~
7 ~~departure if he recklessly permits a person so detained to make an~~
8 ~~unauthorized departure.~~

9 (a) A public servant is responsible for the supervision of persons
10 from:

11 (1) A correctional facility;

12 (2) Custody; or

13 (3) Pursuant to a court order or petition in:

14 (A) The Arkansas State Hospital; or

15 (B) A juvenile detention facility or youth services
16 program.

17 (b) A public servant as listed in subdivision (a)(3) of this section
18 commits the offense of permitting escape or unauthorized departure in the
19 second degree if he or she recklessly permits a person to escape or make an
20 unauthorized departure.

21 ~~(b)(c)~~ Permitting escape or unauthorized departure in the second
22 degree is a ~~Class C~~ Class A misdemeanor.

23
24 SECTION 330. Arkansas Code § 2-2-202 is amended to read as follows:

25 2-2-202. Penalty.

26 (a) Any person, firm, or corporation violating any terms of § 2-2-201
27 shall be declared guilty of a Class A misdemeanor ~~and, upon conviction,~~
28 ~~punished by a fine of not less than one hundred dollars (\$100) and not more~~
29 ~~than one thousand dollars (\$1,000) or by imprisonment of a period of not less~~
30 ~~than thirty (30) days or not more than six (6) months, or both, in the~~
31 ~~discretion of the court.~~

32 (b) Each violation of any provision of § 2-2-201 shall be deemed a
33 separate offense.

34
35 SECTION 331. Arkansas Code § 2-16-304 is amended to read as follows:

36 2-16-304. Penalties - Prosecution.

1 (a) Any person who shall violate any of the provisions of this
2 subchapter or who shall interfere with any member of the State Plant Board or
3 any inspector or employee while engaged in the performance of his or her
4 duties under this subchapter shall be deemed guilty of a Class A misdemeanor.
5 ~~Upon conviction he shall be punished by a fine of not less than twenty-five~~
6 ~~dollars (\$25.00) nor more than five hundred dollars (\$500) or imprisonment~~
7 ~~for not less than ten (10) days nor more than six (6) months, or by both fine~~
8 ~~and imprisonment, at the discretion of the court having jurisdiction.~~

9 (b) Upon information furnished by the board, it shall be the duty of
10 the Attorney General or the prosecuting attorney of the district in which an
11 alleged violation of any of the provisions of this subchapter may occur to
12 enforce the provisions of this subchapter by proceedings in any court of
13 competent jurisdiction. If the remedy elected to be pursued is by writ of
14 injunction, no court of this state shall have the right, previous to a
15 hearing upon the merits, to set aside or stay the writ.

16
17 SECTION 332. Arkansas Code § 3-3-201 is amended to read as follows:

18 3-3-201. Unknowingly furnishing or selling to minor.

19 ~~(a) The sale, giving away, or other disposition of intoxicating liquor~~
20 ~~to a minor is declared to be a misdemeanor.~~

21 ~~(b)~~(a) Any person who shall unknowingly sell, give away, or otherwise
22 dispose of intoxicating liquor to a minor shall be guilty of a violation and
23 punished by a fine of not less than two hundred dollars (\$200) nor more than
24 five hundred dollars (\$500) for the first offense.

25 (b) For the second and subsequent offenses, he or she shall be
26 ~~punished by a fine of not less than five hundred dollars (\$500) nor more than~~
27 ~~one thousand dollars (\$1,000) or by imprisonment in the county jail for not~~
28 ~~less than one (1) year, or both a fine and imprisonment in the discretion of~~
29 ~~the jury or court~~ guilty of a Class A misdemeanor.

30
31 SECTION 333. Arkansas Code § 3-3-209 is amended to read as follows:

32 3-3-209. Furnishing to alcoholics or intoxicated persons.

33 Any person who shall sell, give away, or dispose of intoxicating liquor
34 to a habitual drunkard or an intoxicated person shall be guilty of a
35 ~~misdemeanor~~ violation and for the first offense be punishable by a fine of
36 not less than one hundred dollars (\$100) nor more than two hundred fifty

1 dollars (\$250). For the second and subsequent offenses, he or she shall be
2 guilty of a Class A misdemeanor ~~and punishable by a fine of not less than two~~
3 ~~hundred fifty dollars (\$250) nor more than five hundred dollars (\$500) or by~~
4 ~~imprisonment in the county jail for not less than six (6) months nor more~~
5 ~~than one (1) year, or both so fined and imprisoned in the discretion of the~~
6 ~~court or jury.~~ The penalties prescribed herein shall be in addition to any
7 other penalty prescribed by law.

8
9 SECTION 334. Arkansas Code § 3-3-315 is amended to read as follows:

10 3-3-315. Failure to surrender confiscated beverages.

11 Any person who shall seize or confiscate any spirituous, vinous, or
12 malt beverages under the provisions of §§ 3-3-311 and 3-3-312, and who shall
13 not immediately turn over the spirituous, vinous, or malt beverages as
14 required by § 3-3-312 to the mayor or the county judge, as the case may be,
15 shall be guilty of a Class A misdemeanor. ~~Upon conviction, he shall be~~
16 ~~subject to a fine of not less than fifty dollars (\$50.00) nor more than five~~
17 ~~hundred dollars (\$500) or imprisonment of not less than three (3) months nor~~
18 ~~more than one (1) year, or both such fine and imprisonment~~

19
20 SECTION 335. Arkansas Code § 3-7-303 is amended to read as follows:

21 3-7-303. Records - Penalties.

22 (a) Each wholesale distributor and importer of spirituous liquors
23 required to file a return shall keep such complete and accurate books,
24 papers, invoices, and other records as may be necessary to substantiate the
25 accuracy of his or her report and the amount of excise tax due and shall
26 retain the records for not less than three (3) years, subject to the use and
27 inspection of the Director of the Department of Finance and Administration or
28 his or her agents.

29 (b) Any person required by this subchapter to retain books, papers,
30 invoices, and other records who fails to produce them upon demand by the
31 Director of the Department of Finance and Administration or his or her agent
32 or agents of the Alcoholic Beverage Control Division or its successor agency,
33 unless such failure to produce is due to providential or other causes beyond
34 his or her control, shall be guilty of a Class A misdemeanor ~~and upon~~
35 ~~conviction shall be fined not more than one thousand dollars (\$1,000) or~~
36 ~~imprisoned not more than thirty (30) days, or punished by both the fine and~~

1 ~~imprisonment, in the discretion of the court.~~

2
3 SECTION 336. Arkansas Code § 3-9-204 is amended to read as follows:

4 3-9-204. Penalties.

5 (a) Any person who shall violate any provision of §§ 3-9-201 - 3-9-
6 214, 3-9-221 - 3-9-225, and 3-9-232 - 3-9-237 shall be guilty of a Class A
7 misdemeanor ~~and upon conviction may be fined not more than one thousand~~
8 ~~dollars (\$1,000) and, in the discretion of the court, imprisoned for not more~~
9 ~~than six (6) months.~~

10 (b) Each violation shall constitute a separate offense.

11 (c) The director shall have the authority to suspend, cancel, or
12 revoke the permit of any permittee so convicted.

13
14 SECTION 337. Arkansas Code § 3-9-403 is amended to read as follows:

15 3-9-403. Penalties.

16 (a)(1) It shall be unlawful and shall constitute a Class A misdemeanor
17 for any person not holding a valid Sunday sales permit issued under this
18 subchapter to sell alcoholic beverages for on-premises consumption.

19 ~~(2) Any person found guilty of this provision may be fined not~~
20 ~~more than one thousand dollars (\$1,000) and, in the discretion of the court,~~
21 ~~imprisoned for not more than six (6) months.~~

22 ~~(3)~~(2) Each violation shall constitute a separate offense.

23 (b) The director shall have the authority to suspend, cancel, or
24 revoke either the permit issued under this subchapter or the on-premises
25 permit issued under § 3-9-201 et seq. to any hotel or restaurant, or both, if
26 a permittee is convicted under this section.

27
28 SECTION 338. Arkansas Code § 4-18-103 is amended to read as follows:

29 4-18-103. Fruit and commodities Packing, selling, pledging, etc., with
30 fraudulent intent - Penalty.

31 (a) Any person who shall pack any fruit or other merchantable
32 commodity with the fraudulent intent of cheating others by a
33 misrepresentation of the contents, either as to quality or quantity, shall,
34 on conviction, be ~~punished by a fine not exceeding five hundred dollars~~
35 ~~(\$500) or by imprisonment at hard labor not exceeding one (1) year, or both~~
36 guilty of a Class A misdemeanor.

1 (b) Any person who shall sell, pledge, or hypothecate any such
2 commodity, knowing the same to be packed in the fraudulent manner aforesaid,
3 with the intent to cheat and deceive shall on conviction be punished as
4 provided in § 4-18-102.

5
6 SECTION 339. Arkansas Code § 4-18-210 is amended to read as follows:

7 4-18-210. Hindering or obstructing bureau personnel - Penalty.

8 Any person who hinders or obstructs in any way the Director of the
9 Arkansas Bureau of Standards, the deputy director, any one of the inspectors,
10 or a sealer or deputy sealer in the performance of his official duties, is
11 guilty of a Class A misdemeanor. ~~punished by a fine of not less than one~~
12 ~~hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by~~
13 ~~imprisonment for not more than three (3) months, or by both fine and~~
14 ~~imprisonment.~~

15
16 SECTION 340. Arkansas Code § 4-75-204 is amended to read as follows:

17 4-75-204. Penalties.

18 Any person, firm, or corporation, whether as principal, agent, officer,
19 or director, for himself or herself, or itself, or for another person, or for
20 any firm or corporation, or any corporation who or which shall violate any of
21 the provisions of this subchapter is guilty of a Class A misdemeanor for each
22 single violation ~~and upon conviction shall be punished by a fine of not less~~
23 ~~than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)~~
24 ~~or by imprisonment not exceeding six (6) months, or by both a fine and~~
25 ~~imprisonment in the discretion of the court.~~

26
27 SECTION 341. Arkansas Code § 4-75-208 is amended to read as follows:

28 4-75-208. Secret payments or allowance of rebates, refunds, etc.

29 Penalty.

30 (a) The secret payment or allowance of rebates, refunds, commissions,
31 or unearned discounts, whether in the form of money or otherwise, or secretly
32 extending to certain purchasers special services or privileges not extended
33 to all purchasers purchasing upon like terms and conditions, to the injury of
34 a competitor and where the payment or allowance tends to destroy competition,
35 is an unfair trade practice.

36 (b) Any person, firm, partnership, corporation, or association

1 resorting to such trade practice shall be deemed guilty of a Class A
2 misdemeanor ~~and on conviction shall be subject to the penalties set out in §~~
3 ~~4-75-204.~~

4
5 SECTION 342. Arkansas Code § 4-75-209(a), concerning the crime of
6 selling below cost with intent to injure competitors, is amended to read as
7 follows:

8 (a)(1) It shall be unlawful for any person, partnership, firm,
9 corporation, joint-stock company, or other association engaged in business
10 within this state, to sell, offer for sale, or advertise for sale any article
11 or product, or service or output of a service trade, at less than the cost
12 thereof to the vendor, or to give, offer to give, or advertise the intent to
13 give away any article or product, or service or output of a service trade,
14 for the purpose of injuring competitors and destroying competition.

15 (2) Any person or entity so doing shall be guilty of a
16 ~~misdemeanor, and on conviction shall be subject to the penalties set out in §~~
17 ~~4-75-204 for any such act~~ Class A misdemeanor.

18
19 SECTION 343. Arkansas Code § 4-89-104 is amended to read as follows:
20 4-89-104. Penalties.

21 Any person, firm, partnership, corporation, or other entity who
22 knowingly and willfully commits a deceptive trade practice as defined in § 4-
23 89-102(2) shall be guilty of a Class A misdemeanor ~~and, upon conviction in~~
24 ~~the circuit court of any county in which any portion of the unlawful practice~~
25 ~~occurred, shall be subject to a fine of not more than two hundred fifty~~
26 ~~dollars (\$250) or to imprisonment of not exceeding one (1) year, or both a~~
27 ~~fine and imprisonment.~~

28
29 SECTION 344. Arkansas Code § 5-27-220 is amended to read as follows:
30 5-27-220. Contributing to the delinquency of a juvenile.

31 (a) Any person who shall willfully cause, aid, or encourage any person
32 under eighteen (18) years of age to do or perform any act which, if done or
33 performed, would make such person under eighteen (18) years of age a
34 "delinquent juvenile" or "juvenile in need of supervision" within the meaning
35 of this section and ~~§§ 9-27-301—9-27-361~~ Arkansas Juvenile Code of 1989, §
36 9-27-301 et seq. shall be guilty of a Class A misdemeanor.

1 (b) The judge ~~of the juvenile court~~ shall have power to issue a bench
2 warrant for the arrest of an adult where there is probable cause to believe
3 the adult is committing an offense under this section, returnable to either
4 the municipal court or the circuit court of the county in which the offense
5 was committed.

6 (c) Any indictment or information under this section shall state the
7 specific act(s) the defendant is alleged to have committed.

8 (d) Any person convicted of a violation of this section may be
9 punished as provided for a Class A misdemeanor ~~by imprisonment for not less~~
10 ~~than sixty (60) days nor more than one (1) year, and by a fine of not less~~
11 ~~than one hundred dollars (\$100) nor more than five hundred dollars (\$500).~~
12 However, the court may suspend or postpone enforcement of all, or any part,
13 of the sentence or fine levied under this section if, in the judgment of the
14 court, the suspension or postponement is in the best interest of the juvenile
15 so caused, aided, or encouraged.

16
17 SECTION 345. Arkansas Code § 5-37-225 is amended to read as follows:

18 5-37-225. Use of false transcript, diploma, or grade report from
19 postsecondary educational institution.

20 (a) No person may falsely make, forge, or counterfeit, or cause or
21 procure to be falsely made, forged, or counterfeited, or willingly aid or
22 assist in falsely making, forging, or counterfeiting a transcript, diploma,
23 or grade report of a postsecondary educational institution.

24 (b) No person may use, offer, or present as genuine a false, forged,
25 counterfeited, or altered transcript, diploma, or grade report of a
26 postsecondary educational institution.

27 (c) No person may use, offer, or present a transcript, diploma, or
28 grade report of a postsecondary educational institution in a fraudulent
29 manner.

30 (d) A person who violates any provision of this section shall be
31 guilty of a Class A misdemeanor ~~and upon conviction shall be subject to a~~
32 ~~fine not to exceed one thousand dollars (\$ 1,000), or imprisonment not to~~
33 ~~exceed six (6) months, or both.~~

34
35 SECTION 346. Arkansas Code § 5-37-503 is amended to read as follows:

36 5-37-503. Animals -- False registration or pedigree.

1 Every person who, by any false pretense, shall obtain from any club,
2 association, society, or company for improving the breed of cattle, horses,
3 sheep, swine, or other domestic animals a certificate of registration of any
4 animal in the herd register or other register of any such club, association,
5 society, or company, or a transfer on any registration, and every person who
6 shall knowingly give a false pedigree of any animal, upon conviction shall be
7 ~~punished by imprisonment in the Department of Correction for a term not~~
8 ~~exceeding three (3) years or in the county jail for a term not exceeding one~~
9 ~~(1) year or by a fine not exceeding one thousand dollars (\$ 1,000), or by~~
10 ~~both fine and imprisonment~~ guilty of a Class A misdemeanor.

11
12 SECTION 347. Arkansas Code §§ 5-37-521 and 5-37-522 are amended to
13 read as follows:

14 5-37-521. Farm implements -- Removal or alteration of serial number.

15 (a) Any person who knowingly buys, receives, disposes of, sells,
16 offers for sale, or has in his or her possession any tractor, trailer, or
17 other farm implement or engine removed from such tractor or farm implement,
18 from which the manufacturer's serial or engine number or other distinguishing
19 number or identification mark or number placed thereon has been removed,
20 defaced, covered, altered, or destroyed for the purpose of concealing or
21 misrepresenting the identity of said tractor, trailer, or farm implement or
22 engine, is guilty of a misdemeanor.

23 (b)(1) No person shall with fraudulent intent deface, destroy, or
24 alter the manufacturer's serial or engine number or other distinguishing
25 number or identification mark of a tractor, trailer, or other farm implement.

26 (2) No person shall place or stamp any fictitious or
27 unauthorized serial, engine, or other number or distinguishing mark with the
28 intention that the same pass for a number or mark placed thereon by the
29 manufacturer of such tractor, trailer, or farm implement.

30 (3) This subsection shall not prohibit the restoration by an
31 owner or repairman of an original serial, engine, or other number or
32 distinguishing mark but is designed to prohibit and prevent the fraudulent
33 removal or alteration of marks or numbers placed on such tractors, trailers,
34 and other farm implements by the manufacturer.

35 (c) Anyone found guilty of violation of the provisions of this section
36 shall be ~~punished by a fine not exceeding five hundred dollars (\$ 500) and,~~

1 ~~in the discretion of the jury, confinement in the county jail for a period of~~
2 ~~not exceeding six (6) months guilty of a Class A misdemeanor.~~

3
4 5-37-522. Tobacco -- Removal of serial number on container.

5 (a) It shall be unlawful for any person to remove, obliterate, or
6 otherwise render unreadable the manufacturer's serial or code number on any
7 case, carton, package, or other container of any tobacco product.

8 (b) Any person violating the provisions of this section shall be
9 guilty of a Class A misdemeanor ~~and upon conviction shall be subject to a~~
10 ~~fine of two hundred dollars (\$ 200) or imprisonment for a period of not to~~
11 ~~exceed one (1) year, or both.~~

12
13 SECTION 348. Arkansas Code § 5-38-214 is amended to read as follows:

14 5-38-214. Willful removal or destruction of landmarks established by
15 legal survey.

16 (a) Any person or persons who shall willfully cut down, destroy,
17 deface, remove, or carry off any witness tree, monument, or other landmark
18 established by legal survey and used to delineate boundary lines shall be
19 ~~deemed~~ guilty of a Class A misdemeanor ~~and upon conviction shall be fined in~~
20 ~~any sum not less than five hundred dollars (\$500) nor more than one thousand~~
21 ~~dollars (\$1,000) or by imprisonment in the county jail for a period of not~~
22 ~~less than thirty (30) days, or by both fine and imprisonment.~~

23 (b) Furthermore, in any civil suit involving damages to property
24 arising from the removal or destruction of a marker established by a legal
25 survey, the complaining party shall be entitled to recover triple damages.

26
27 SECTION 349. Arkansas Code § 5-38-310 is amended to read as follows:

28 5-38-310. Unlawful burning - Miscellaneous misdemeanors.

29 (a) The following acts shall be Class A misdemeanors ~~and shall be~~
30 ~~punished by a fine of not less than twenty five dollars (\$25.00) nor more~~
31 ~~than three hundred dollars (\$300) or a jail sentence of not more than one (1)~~
32 ~~year, or both fine and imprisonment:~~

33 (1) Setting on fire or causing or procuring to be set on fire
34 any forest, brush, or other inflammable vegetation on lands not his or her
35 own;

36 (2) Allowing fire to escape from the control of the person

1 building or having charge of the fire, or to spread to the lands of any
2 person other than the builder of the fire;

3 (3) Burning any brush, stumps, logs, rubbish, fallen timber,
4 grass, stubble, or debris of any sort, whether on his or her own land or that
5 of another, without taking necessary precaution both before lighting the fire
6 and at all times thereafter to prevent the escape thereof. The escape of fire
7 to adjoining timber, brush, or grasslands shall be prima facie evidence that
8 necessary precautions were not taken;

9 (4) Building a camp fire upon lands not one's own, without
10 cleaning the ground immediately around it free from material which will carry
11 fire, or leaving thereon a camp fire to spread thereon or by throwing away a
12 lighted cigar, match, cigarette or by the use of firearms or in any other
13 manner starting a fire in forest material not his own and leaving the fire
14 unextinguished;

15 (5) Defacing or destroying fire warning notices; and

16 (6) Failure by any employee of the State Forestry Commission or
17 any officer charged with the duties of enforcing criminal laws to attempt to
18 secure the arrest and conviction of any persons against whom he or she has or
19 can secure evidence of violating the fire laws.

20 ~~(7) [Repealed].~~

21 (b) No bond for costs shall be required in any courts of this state
22 for prosecution for violation of the provisions of this section.

23
24 SECTION 350. Arkansas Code §§ 5-51-205 and 5-51-206 are amended to
25 read as follows:

26 5-51-205. Advocating personal injury, destruction of property, or
27 overthrow of government – Writing or speaking.

28 (a) It shall be unlawful for any person or persons:

29 (1) To write, indict, dictate, speak, utter, publish, or declare
30 or be interested in writing, indicting, dictating, speaking, uttering,
31 publishing, or declaring any word, sentence, speech, or article of whatsoever
32 nature or kind, with the intent to encourage, advise, aid, assist, or abet in
33 the infliction of any personal injury upon any person or the taking of human
34 life, or destruction or injury to either public or private property, without
35 due process of law; ~~or~~

36 (2) In any manner to disseminate knowledge or propaganda which

1 tends to destroy or overthrow the present form of government of either the
2 State of Arkansas or the United States of America by any violence or unlawful
3 means whatsoever; or

4 (3) To employ any of the aforesaid means calculated to cause the
5 aforesaid results.

6 (b) Each person violating the provisions of this section shall be
7 guilty of a Class A misdemeanor ~~and, upon conviction, shall be punished by a~~
8 ~~fine of not less than ten dollars (\$10.00) nor more than one thousand dollars~~
9 ~~(\$1,000) and may be imprisoned in the county jail not exceeding six (6)~~
10 ~~months, or both, at the discretion of the court.~~

11
12 5-51-206. Advocating personal injury, destruction of property, or
13 overthrow of government – Use of symbols.

14 (a) It shall be unlawful for any person or persons to wear, use,
15 exhibit, display, or have in possession any symbol, token, device, or flag,
16 the meaning, object, purpose, or intent of which is to encourage, aid,
17 assist, or abet, with such intent, or incite with such intent to, or which is
18 calculated to encourage, aid, assist, abet, or incite any person in:

19 (1) The infliction of personal injury upon any other person; ~~or~~

20 (2) The taking of human life; ~~or~~

21 (3) The destruction of either public or private property without
22 due process of law; or

23 (4) The destruction or overthrow of, or that which tends to
24 destroy or overthrow, the present form of government of either the State of
25 Arkansas or the United States of America.

26 (b) Any person violating this section shall be ~~deemed~~ guilty of a
27 Class A misdemeanor ~~and, upon conviction, shall be punished by fine of not~~
28 ~~less than ten dollars (\$10.00) and not more than one thousand dollars~~
29 ~~(\$1,000) and may be imprisoned in the county jail not exceeding six (6)~~
30 ~~months, or both, at the discretion of the court.~~

31
32 SECTION 351. Arkansas Code § 5-68-204 is amended to read as follows:

33 5-68-204. Nudism.

34 (a) The term "nudism" as used in this section is defined to be the act
35 or acts of a person or persons congregating or gathering with his, her, or
36 their private parts exposed in the presence of one (1) or more persons of the

1 opposite sex as a form of social practice.

2 (b) The provisions of this section shall not apply to the enumerated
3 acts when:

4 (1) The purpose of the person committing the act or acts is to
5 render medical or surgical treatment, or to determine the need for medical or
6 surgical treatment, or to cleanse such sexual part, and the person committing
7 such act is a licensed physician, as defined by § 17-80-101, or any such
8 physician of a sister state making a professional call into Arkansas, or the
9 person committing any such act did so under the professional direction of any
10 such physician, or the person committing any such act is a nurse duly
11 registered or licensed by the Arkansas State Board of Nurse Examiners; or

12 (2) When the persons are married legally one to another.

13 (c) It shall be unlawful for any person, club, camp, corporation,
14 partnership, association, or organization to advocate, demonstrate, or
15 promote nudism, or for any person to rent, lease, or otherwise permit his or
16 her land, premises, or buildings to be used for the purpose of advocating,
17 demonstrating, or promoting nudism.

18 (d) Any person, club, camp, corporation, partnership, association, or
19 organization violating any of the provisions of § 5-68-204 shall be guilty of
20 a Class A misdemeanor for each offense ~~and upon conviction shall be fined in~~
21 ~~any sum not less than fifty dollars (\$50.00) nor more than one thousand~~
22 ~~dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more~~
23 ~~than six (6) months, or both such fine and imprisonment for each offense.~~

24 (e) This section shall not repeal any existing laws of the State of
25 Arkansas except those in direct conflict herewith but shall be cumulative to
26 such laws.

27
28 SECTION 352. Arkansas Code § 5-71-226 is amended to read as follows:

29 5-71-226. Disruption of campus activities.

30 (a) It shall be unlawful for any group composed of two (2) or more
31 persons to act jointly with one another, or attempt any action in conjunction
32 with one another, to obstruct or bar any hallway or door of any campus
33 building or facility, seize control of buildings or campus facilities,
34 prevent the meeting of or cause the disruption of any classes, or erect any
35 type of barricades aimed at obstructing the orderly passage of persons or
36 vehicles onto or off of campus grounds at the public, private, or parochial

1 schools and colleges of this state. However, nothing herein shall apply to
2 the activities of any labor organization or teachers' organization.

3 (b) Any person convicted of violating any provision of this section
4 shall be guilty of a Class A misdemeanor ~~and, in addition to any lawful~~
5 ~~penalty imposed by the institution on any student participating in conduct~~
6 ~~prohibited by this section, shall be subject to a fine of not less than two~~
7 ~~hundred dollars (\$200) or imprisonment in the county jail for a period of not~~
8 ~~less than six (6) months, or both.~~

9
10 SECTION 353. Arkansas Code § 23-32-209 is amended to read as follows:

11 23-32-209. Misleading actions or use of words by unauthorized persons.

12 (a)(1) All persons except those described in subdivision (a)(2) of
13 this section are prohibited from using in this state, as a portion of or in
14 connection with their place of business, their name or title, or in reference
15 to themselves in their stationery or advertising, the following words or
16 phrases, alone or in combination with any other word or phrase: "bank",
17 "banker", "bankers", "banking", "federal reserve", "trust company", "trust",
18 "savings and loan", "credit union", "building and loan", or any other word or
19 phrase which tends to induce the belief that the party using it is authorized
20 to engage in the business of a bank, trust company, savings and loan
21 association, or credit union.

22 (2) The prohibitions contained in subdivision (a)(1) of this
23 section shall not apply to those persons ~~which~~ that discharge the burden of
24 proving their authority to use the words or phrases described in subdivision
25 (a)(1) of this section under the laws of this or another state or of the
26 United States.

27 (b) All persons except those described in subdivision (a)(2) of this
28 section are prohibited from doing or soliciting business in this state
29 substantially in the manner, or so as to induce the belief, that the
30 business, in whole or in part, is that of a bank, savings bank, trust
31 company, credit union, or savings and loan association, either by the sale of
32 contract or of shares of its capital stock upon partial or installment
33 payments thereof, or by the receipt of money, savings, dues, or other
34 deposits, or by the issuance of certificates of deposit or certificates of
35 investment of money, savings, or dues.

36 (c) Nothing in this section shall be construed as preventing the use

1 of the word "bankers" in combination with other words in connection with the
2 place of business, name, and title of any finance or investment company
3 operated in connection with, as a subsidiary to, or having joint offices
4 with, a bank or trust company in this state, if the bank or trust company is
5 subject to the supervision of the Bank Commissioner and if the bank or trust
6 company has the word "bankers" alone or in combination with other words in
7 its name or title.

8 (d) Each violation of subsection (a) of this section shall constitute
9 a Class A misdemeanor ~~felony which shall be punished by a fine of five~~
10 ~~hundred dollars (\$ 500) per violation or by imprisonment not exceeding one~~
11 ~~(1) year, or by both fine and imprisonment.~~

12 (e) It is declared to be public policy that this law be liberally
13 construed in favor of its enforcement.

14 (f) Nothing in this section shall be construed to authorize any person
15 to engage in any activity not otherwise authorized under Arkansas law.

16 (g) "Person" when used in this section means an individual,
17 corporation, partnership, joint venture, trust, estate, limited liability
18 company, or other unincorporated association or any other legal or commercial
19 entity.

20
21 SECTION 354. Arkansas Code § 23-48-403 is amended to read as follows:
22 23-48-403. Penalties.

23 (a) Any person who willfully violates any provision of this
24 subchapter, or order issued by the Bank Commissioner pursuant thereto, or any
25 State Bank Department regulation is guilty of a Class A misdemeanor.

26 (b) Any individual who willfully participates in a violation of any
27 provision of this subchapter ~~shall, upon conviction, be fined not less than~~
28 ~~one thousand dollars (\$ 1,000) nor more than five thousand dollars (\$ 5,000)~~
29 ~~or imprisoned not more than one (1) year, or both~~ is guilty of a Class A
30 misdemeanor.

31
32 SECTION 355. Arkansas Code § 23-50-103 is amended to read as follows:
33 23-50-103. Misleading actions or use of words by unauthorized persons.

34 (a)(1) All persons except those described in subdivision (a)(2) of
35 this section are prohibited from using in this state, as a portion of or in
36 connection with their place of business, their name or title, or in reference

1 to themselves in their stationery or advertising, the following words or
2 phrases, alone or in combination with any other word or phrase: "bank",
3 "banker", "bankers", "banking", "federal reserve", "trust company", "trust",
4 "savings and loan", "credit union", or "building and loan", or any other word
5 or phrase which tends to induce the belief that the party using it is
6 authorized to engage in the business of a bank, trust company, savings and
7 loan association, or credit union.

8 (2) The prohibitions contained in subdivision (a)(1) of this
9 section shall not apply to those persons who discharge the burden of proving
10 their authority to use the words or phrases described in subdivision (a)(1)
11 of this section under the laws of this or another state or of the United
12 States.

13 (b) All persons except those described in subdivision (a)(2) of this
14 section are prohibited from doing or soliciting business in this state
15 substantially in the manner, or so as to induce the belief, that the
16 business, in whole or in part, is that of a bank, savings bank, trust
17 company, credit union, or savings and loan association, either by the sale of
18 contract, or of shares of its capital stock upon partial or installment
19 payments thereof, or by the receipt of money, savings, dues, or other
20 deposits, or by the issuance of certificates of deposit or certificates of
21 investment of money, savings, or dues.

22 (c) Nothing in this section shall be construed as preventing the use
23 of the word "bankers" in combination with other words in connection with the
24 place of business, name, and title of any finance or investment company
25 operated in connection with, as a subsidiary to, or having joint offices
26 with, a bank or trust company in this state, if the bank or trust company is
27 subject to the supervision of the Bank Commissioner and if the bank or trust
28 company has the word "bankers" alone or in combination with other words in
29 its name or title.

30 (d) Each violation of subsection (a) of this section shall constitute
31 a ~~felony which shall be punished by a fine of five hundred dollars (\$500) per~~
32 ~~violation or by imprisonment not exceeding one (1) year, or by both fine and~~
33 ~~imprisonment~~ Class A misdemeanor.

34 (e) It is declared to be public policy that this law be liberally
35 construed in favor of its enforcement.

36 (f) Nothing in this section shall be construed to authorize any person

1 to engage in any activity not otherwise authorized under Arkansas law.

2
3 SECTION 356. Arkansas Code § 23-74-703 is amended to read as follows:
4 23-74-703. Penalties.

5 (a) Any person who willfully makes a false or fraudulent statement in
6 or relating to an application for membership or for the purpose of obtaining
7 money from or a benefit in any society, upon conviction, shall be ~~fined not~~
8 ~~less than one hundred dollars (\$ 100) nor more than one thousand dollars (\$~~
9 ~~1000) or imprisoned in the county jail for not less than one (1) year, or~~
10 both guilty of a Class A misdemeanor.

11 (b) Any person who willfully makes a false or fraudulent statement in
12 any verified report or declaration under oath required or authorized by this
13 chapter, or of any material fact or thing contained in a sworn statement
14 concerning the death or disability of a member for that purpose of procuring
15 payment of a benefit named in the certificate, ~~is guilty of perjury and is~~
16 ~~subject to the penalties therefor prescribed by law~~ shall be guilty of a
17 Class C misdemeanor.

18 (c) Any person who solicits membership for, or in any manner assists
19 in procuring membership in, any society not licensed to do business in this
20 state, shall be guilty of a violation and upon conviction, shall be fined not
21 less than fifty dollars (\$ 50) nor more than two hundred dollars (\$200).

22 (d) Any person guilty of a willful violation of, or neglect or refusal
23 to comply with, this chapter for which a penalty is not otherwise prescribed,
24 ~~shall,~~ shall be guilty of a violation and upon conviction, be subject to a
25 fine not exceeding one thousand dollars (\$1000).

26
27 SECTION 357. Arkansas Code § 23-77-103 is amended to read as follows:
28 23-77-103. Penalty.

29 (a) It shall be unlawful for any person, firm, association,
30 copartnership, corporation, company, or other organization to organize,
31 operate, or in any way solicit members for an automobile club or association,
32 or offer any of the motor club services as defined in § 23-77-101, except in
33 the manner provided in this chapter and under the rules and regulations
34 promulgated by the Insurance Commissioner.

35 (b) Any person, firm, association, copartnership, corporation,
36 company, or other organization violating the provisions of this section shall

1 be guilty of a Class A misdemeanor ~~and, upon conviction, shall be fined not~~
2 ~~more than two hundred fifty dollars (\$ 250) or imprisoned not more than six~~
3 ~~(6) months, or both fined and imprisoned.~~

4
5 SECTION 358. Arkansas Code § 23-78-104 is amended to read as follows:
6 23-78-104. Penalty.

7 (a) It shall be unlawful for any person, firm, association,
8 copartnership, corporation, company, or other organization to organize,
9 operate, or in any way solicit members for a burial association, or for
10 participation in any plan, scheme, or device similar to burial associations,
11 except in the manner provided by this chapter and the rules and regulations
12 promulgated by the Burial Association Board.

13 (b) Any person, firm, association, copartnership, corporation,
14 company, or other organization violating the provisions of this section shall
15 be guilty of a Class A misdemeanor ~~and, upon conviction, shall be fined not~~
16 ~~more than two hundred fifty dollars (\$ 250) or imprisoned not more than six~~
17 ~~(6) months, or both.~~

18
19 SECTION 359. Arkansas Code § 23-78-114 is amended to read as follows:
20 23-78-114. False claim, promise, or representation of agent.

21 Any burial association official, agent, or representative thereof who,
22 for the purpose of inducing a member of one (1) association to change
23 membership to another association, shall make any false claim, promise, or
24 representation not authorized in the bylaws of the association represented by
25 him or her shall be guilty of a Class A misdemeanor ~~and, upon conviction,~~
26 ~~shall be fined not more than two hundred fifty dollars (\$ 250) or imprisoned~~
27 ~~not more than one (1) year, or both.~~

28
29 SECTION 360. Arkansas Code § 23-78-118 is amended to read as follows:
30 23-78-118. Books -- False entries prohibited

31 ~~(a)~~ Any person or burial association official who knowingly makes or
32 allows to be made any false entry on the books of the association with intent
33 to deceive or defraud any member thereof, or with intent to conceal the true
34 condition of the association from the Burial Association Board or its agents
35 or employees or any auditor authorized to examine the books of the
36 association under the supervision of the board, shall be guilty of a Class A

1 misdemeanor.

2 ~~(b) Upon conviction, the person shall be fined not more than two~~
3 ~~hundred fifty dollars (\$ 250) or imprisoned not more than one (1) year, or~~
4 ~~both.~~

5

6 SECTION 361. Arkansas Code § 23-110-401 is amended to read as follows:
7 23-110-401. Accordance with license required.

8 (a) Any franchise holder or any person aiding or abetting in the
9 holding or conducting of any horse racing meet at which horse racing shall be
10 permitted for any stake, purse, or reward, except in accordance with a
11 license duly issued as provided in this subchapter, shall be guilty of a
12 Class A misdemeanor for each such offense and, ~~upon conviction, shall be~~
13 ~~punished for each offense by a fine of not less than five thousand dollars (\$~~
14 ~~5,000) nor more than ten thousand dollars (\$ 10,000) or by imprisonment for~~
15 ~~not more than one (1) year, or by both fine and imprisonment.~~

16 (b) For the purposes of this subchapter, each day of racing in
17 violation of the provisions of this chapter shall be considered as a separate
18 and distinct offense.

19

20 SECTION 362. Arkansas Code § 24-4-102 is amended to read as follows:
21 24-4-102. Penalty.

22 Any person who knowingly makes any false statements or who falsifies or
23 permits to be falsified any record, in an attempt to defraud the system as
24 the result of such act, shall be guilty of a Class A misdemeanor and ~~shall,~~
25 ~~upon conviction by a court, be punished by a fine of not less than one~~
26 ~~hundred dollars (\$100) or a maximum of six (6) months in jail, or both.~~

27

28 SECTION 363. Arkansas Code § 24-5-102 is amended to read as follows:
29 24-5-102. Penalty.

30 Any person who knowingly makes any false statement or who falsifies any
31 record or records in an attempt to defraud the Arkansas State Highway
32 Employees' Retirement System as a result of such act shall be guilty of a
33 Class A misdemeanor and ~~shall, upon conviction, be punished by a fine of not~~
34 ~~less than one hundred dollars (\$100) or imprisonment for a maximum of six (6)~~
35 ~~months in jail, or both.~~

36

1 SECTION 364. Arkansas Code § 24-6-202 is amended to read as follows:
2 24-6-202. Penalty.

3 (a) Any person who knowingly makes any false statements or who
4 falsifies or permits to be falsified any records of the State Police
5 Retirement System or Department of Arkansas State Police, in an attempt to
6 defraud the system as the result of that act, shall be guilty of a
7 misdemeanor.

8 (b) Upon conviction by a court, that person shall be ~~punished by a~~
9 ~~fine of not less than one hundred dollars (\$100) or a maximum of six (6)~~
10 ~~months in jail, or both~~ guilty of a Class A misdemeanor.

11
12 SECTION 365. Arkansas Code § 25-17-207 is amended to read as follows:
13 25-17-207. Oath of members.

14 (a) Before entering upon his or her respective duties, each board
15 member shall take, subscribe, and file in the office of the Secretary of
16 State an oath that he or she will support the Constitution of the United
17 States and the Constitution of the State of Arkansas, that he or she will
18 faithfully perform the duties of the office upon which he or she is about to
19 enter, and that he will not be or become directly or indirectly interested in
20 any contract made by the board.

21 (b)(1) Any violation of the oath shall be a Class A misdemeanor ~~and~~
22 ~~shall be punishable by a fine of not less than five hundred dollars (\$ 500)~~
23 ~~or by imprisonment of not less than six (6) months, or by both fine and~~
24 ~~imprisonment.~~

25 (2) Any contract entered into in violation of the oath shall be
26 null and void.

27
28 SECTION 366. Arkansas Code § 3-3-207 is amended to read as follows:
29 3-3-207. Sales to persons failing to provide for families.

30 (a) Any person who shall sell intoxicating alcoholic liquor to any
31 person who has been reported to the seller, by the juvenile court or any
32 officer acting by its discretion, as failing to make a proper provision for
33 his or her family shall be guilty of a Class C misdemeanor ~~and shall be fined~~
34 ~~not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars~~
35 ~~(\$250) or imprisoned not less than ten (10) days nor more than sixty (60)~~
36 ~~days, or both so fined and imprisoned within the discretion of the court or~~

1 jury. The penalties prescribed herein shall be in addition to any other
2 penalty prescribed by law.

3 (b) Any person found guilty a second time shall be ~~fined not less than~~
4 ~~fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or confined~~
5 ~~in the county jail not less than one (1) month nor more than six (6) months,~~
6 ~~or both so fined and imprisoned within the discretion of the court or jury~~
7 guilty of a Class B misdemeanor.

8

9 SECTION 367. Arkansas Code §§ 3-3-210 and 3-3-211 are amended to read
10 as follows:

11 3-3-210. Sale on Sunday or early weekday mornings.

12 (a) Any person who shall sell intoxicating alcoholic liquor on Sunday,
13 except as such sales are authorized by § 3-9-215 and § 3-9-401 et seq., or
14 between 1:00 a.m. and 7:00 a.m. on weekdays shall be guilty of a ~~misdemeanor~~
15 violation and for the first offense be punished by a fine of not less than
16 one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).
17 For the second and subsequent offenses, he shall be guilty of a Class B
18 ~~misdemeanor and punished by a fine of not less than two hundred fifty dollars~~
19 ~~(\$250) nor more than five hundred dollars (\$500) or by imprisonment in the~~
20 ~~county jail for no fewer than ten (10) days nor more than six (6) months or~~
21 ~~both so fined and imprisoned in the discretion of the court or jury.~~

22 (b)(1)(A) As a further exception to the Sunday sales prohibition set
23 out in subsection (a) of this section, counties and cities in the state in
24 which the sale of alcoholic beverages is authorized, by the adoption of an
25 ordinance by the county quorum court or city board or other governing body,
26 may refer to the voters at an election the issue of whether or not to
27 authorize the sale of alcoholic beverages on Sundays between the hours of
28 12:00 noon and 10:00 p.m. or within a lesser period within such hours as may
29 be provided in the ordinance.

30 (B) The Sunday sale of alcoholic beverages as authorized
31 in this subsection (b) shall be limited to those businesses within such
32 county or city which possess a current and valid license for the sale of
33 alcoholic beverages issued by the Alcoholic Beverage Control Division.

34 (2)(A) The election shall be conducted on a citywide or
35 countywide basis.

36 (B) All qualified electors within the city or county, as

1 the case may be, shall be eligible to vote even though they may reside in a
2 dry area thereof.

3 (C) The election on the Sunday sales question shall be
4 held in accordance with the procedures established for on-premises
5 consumption elections by § 3-9-201 et seq., and the ballot for such election
6 shall be printed substantially as follows:

7 "() FOR THE SALE FOR ALCOHOLIC BEVERAGES ON SUNDAY IN (NAME OF
8 CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW.
9 AGAINST THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY IN (NAME OF
10 CITY OR COUNTY), ARKANSAS, AS AUTHORIZED BY LAW."

11 (3)(A) The vote of the majority of the electors in a citywide
12 election approving Sunday sales shall authorize such sales in all permitted
13 outlets located within the incorporated areas of such city only.

14 (B) The vote of the majority of the electors in a
15 countywide election approving Sunday sales shall authorize such sales in all
16 permitted outlets located anywhere within such county.

17 (4) The vote of the majority of the electors against the sale of
18 alcoholic beverages on Sunday will have no effect on any area which had
19 previously approved Sunday sales of mixed drinks in hotels and restaurants as
20 authorized by § 3-9-215.

21 (c) Notwithstanding the authority granted to counties and cities in
22 this section, wholesale distributors of intoxicating alcoholic liquor may not
23 sell or deliver any alcoholic beverages to retailers on a Sunday.

24

25 3-3-211. Sales on Christmas Day.

26 (a) It shall be unlawful to sell intoxicating liquors on Christmas
27 Day.

28 (b) Any person who shall sell intoxicating alcoholic liquors on
29 Christmas Day shall be guilty of a Class B misdemeanor ~~and shall be fined not~~
30 ~~less than one hundred dollars (\$100) nor more than one thousand dollars~~
31 ~~(\$1,000) or imprisoned in the county jail for not less than thirty (30) days~~
32 ~~nor more than six (6) months, or both so fined and imprisoned within the~~
33 ~~discretion of the court or jury.~~

34

35 SECTION 368. Arkansas Code § 3-3-214 is amended to read as follows:

36 3-3-214. Sale of denatured alcohol.

1 (a) It is unlawful for any person to sell, give away, or dispose of
2 denatured alcohol for any beverage purposes whatsoever.

3 (b) Any person who shall sell, give away, or dispose of denatured
4 alcohol for any beverage purpose whatsoever shall be guilty of a ~~misdemeanor~~
5 violation and for the first offense be punished by a fine of not less than
6 one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).
7 For the second and subsequent offenses, he or she shall be guilty of a Class
8 B misdemeanor ~~and punished by a fine of not less than two hundred fifty~~
9 ~~dollars (\$250) nor more than five hundred dollars (\$500), or by imprisonment~~
10 ~~in the county jail for not less than six (6) months nor more than one (1)~~
11 ~~year, or both so fined and imprisoned in the discretion of the jury.~~

12 (c) Any person who shall sell, give away, or dispose of denatured
13 alcohol to a habitual drunkard or an intoxicated person shall be prima facie
14 guilty of selling denatured alcohol for beverage purposes and subject to the
15 penalties herein provided.

16
17 SECTION 369. Arkansas Code § 3-3-216 is amended to read as follows:

18 3-3-216. Possession or sale of untaxed liquor.

19 (a) It shall be unlawful for any person to buy, bargain, sell, loan,
20 own, have in possession, or knowingly transport in this state any
21 intoxicating liquor of any kind upon which the Arkansas excise tax prescribed
22 by law has not been paid.

23 (b) Any person who shall violate the provisions of this section shall
24 be deemed guilty of a Class B misdemeanor ~~and upon conviction shall be fined~~
25 ~~not less than fifty dollars (\$50.00) nor more than five hundred dollars~~
26 ~~(\$500) or imprisoned for not more than six (6) months, or both so fined and~~
27 ~~imprisoned.~~

28 (c) However, it shall constitute a Class A misdemeanor for any person
29 to transport intoxicating liquor from another state without the Arkansas
30 excise tax having been paid on the liquor if the court determines that the
31 defendant was transporting the intoxicating liquor for the purpose of resale.

32
33 SECTION 370. Arkansas Code § 3-3-310 is amended to read as follows:

34 3-3-310. Solicitation or taking orders.

35 (a) It shall be unlawful for any person, firm, or corporation in this
36 state in person, by letter, circular, or other printed matter, or in any

1 other manner, to solicit or take orders in this state for any alcoholic,
2 vinous, malt, spirituous, or fermented liquors or any compound or preparation
3 thereof commonly called tonic, bitters, or medicated liquors, or any other
4 liquors, bitters, or drinks prohibited by the laws of this state to be sold,
5 bartered, or otherwise disposed of.

6 (b) The prohibition of this section shall apply to such liquors,
7 bitters, and drinks, whether the parties intend that the liquors, bitters, or
8 drinks shall be shipped into this state from outside of the state or from one
9 point in this state to another point in this state.

10 (c) The taking or soliciting of orders for the above-described liquors
11 is within the inhibition of this section, although the orders are subject to
12 approval by some other person, and no part of the price is paid, nor any part
13 of the goods is delivered when the order is taken.

14 (d) If such order is in writing, ~~parol~~ parole evidence thereof is
15 admissible without producing or accounting for the absence of the original.

16 (e) Any person, firm, or corporation violating any of the provisions
17 of this section, except as otherwise expressly provided herein, upon
18 conviction shall be ~~fined not less than one hundred dollars (\$100) and not~~
19 ~~more than one thousand dollars (\$1,000) for each offense and may be confined~~
20 ~~not less than thirty (30) days nor more than ninety (90) days in the county~~
21 ~~jail guilty of a Class B misdemeanor.~~

22 ~~(f) The prosecuting attorney or his deputy shall be allowed for each~~
23 ~~conviction in cases prosecuted by him under this section the sum of twenty-~~
24 ~~five dollars (\$25.00).~~

25
26 SECTION 371. Arkansas Code § 3-5-203 is amended to read as follows:

27 3-5-203. Penalties.

28 (a) Any violation of the provisions of this subchapter or of any rule
29 or regulation of the Director of the Alcoholic Beverage Control Division or
30 the violation of any rule or regulation of city legislative bodies relative
31 to the conduct of this business shall be a Class B misdemeanor. ~~The~~
32 ~~punishment shall be by a fine of not more than five hundred dollars (\$500)~~
33 ~~and imprisonment for not more than six (6) months in the discretion of the~~
34 ~~court.~~

35 (b) Any person convicted of the violation of any provision of this
36 subchapter, which violation is defined by this subchapter as a misdemeanor

1 and for which no specific punishment is in this subchapter provided, shall,
2 upon conviction, be punished as otherwise provided by law.

3
4 SECTION 372. Arkansas Code § 3-5-210 is amended to read as follows:

5 3-5-210. Sale or manufacture without state permit unlawful.

6 (a) Except as provided in subsection (b) of this section, any person
7 who shall brew, manufacture, or sell any liquor as defined by this subchapter
8 without first having secured a permit from the Director of the Alcoholic
9 Beverage Control Division authorizing the brewing, manufacturing, or sale of
10 such liquor shall be deemed guilty of a Class B misdemeanor ~~and shall be~~
11 ~~punished as provided in § 3-5-203.~~

12 (b) Home manufacturers of beer or wine in quantities not to exceed two
13 hundred (200) gallons per year shall be exempt as provided in §§ 3-5-
14 205(f)(2) and 3-5-207(b) from the permit requirements for the manufacture of
15 beer and wine and shall not be prosecuted for brewing or manufacturing beer
16 or wine without a permit.

17
18 SECTION 373. Arkansas Code § 3-5-222 is amended to read as follows:

19 3-5-222. Nudity on premises prohibited - Penalty - Regulations.

20 (a) No person who has received a permit under any law of the State of
21 Arkansas for the sale or dispensing of alcoholic beverages for on-premises
22 consumption shall suffer or permit any person to appear on the permitted
23 premises in such manner or attire as to expose to view any portion of the
24 pubic area, anus, vulva, or genitals or any simulation thereof, nor suffer or
25 permit any female to appear on the premises in such manner or attire as to
26 expose to view any portion of her breast below the top of the areola or any
27 simulation thereof.

28 (b) Any retail beer permittee violating this section shall be ~~subject~~
29 ~~to the penalties prescribed in § 3-5-203~~ guilty of a Class B misdemeanor.

30 (c) The Alcoholic Beverage Control Board shall promulgate such
31 regulations as it deems necessary for the implementation of this section.

32
33 SECTION 374. Arkansas Code § 3-5-403 is amended to read as follows:

34 3-5-403. Penalty.

35 Whoever shall violate any provision of this subchapter or any
36 reasonable rule or regulation adopted by the Director of the Alcoholic

1 Beverage Control Division or the Director of the Department of Finance and
2 Administration of this state shall be deemed guilty of a misdemeanor and,
3 upon conviction thereof, in addition to the other penalties prescribed in
4 this subchapter, shall be ~~punished by a fine of not less than fifty dollars~~
5 ~~(\$50.00) nor more than two hundred fifty dollars (\$250) or by imprisonment in~~
6 ~~the county jail for a term of not to exceed ninety (90) days, or by both fine~~
7 ~~and imprisonment, at the discretion of the court or jury trying the case~~
8 guilty of a Class B misdemeanor.

9
10 SECTION 375. Arkansas Code § 3-5-502 is amended to read as follows:

11 3-5-502. Penalty.

12 Any person who shall knowingly or illegally violate any of the
13 provisions of this subchapter shall be guilty of a Class B misdemeanor ~~and~~
14 ~~upon conviction shall be punished by a fine in an amount of not less than~~
15 ~~fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or by~~
16 ~~imprisonment in the county jail for not less than ten (10) nor more than~~
17 ~~thirty (30) days, or by both such fine and imprisonment.~~

18
19 SECTION 376. Arkansas Code § 3-9-302 is amended to read as follows:

20 3-9-302. Penalties.

21 If any cafe or restaurant licensed to sell wines as authorized in this
22 subchapter shall violate any of the provisions of this subchapter or any of
23 the provisions of other laws of this state regarding the sales of wine at
24 retail, the owner or operator of the cafe or restaurant shall be guilty of a
25 Class B misdemeanor. ~~Upon conviction, the owner or operator shall be fined in~~
26 ~~the sum of not less than one hundred dollars (\$100) nor more than five~~
27 ~~hundred dollars (\$500) or imprisoned in the county jail not less than ten~~
28 ~~(10) days nor more than thirty (30) days, or be both so fined and imprisoned.~~

29
30 SECTION 377. Arkansas Code § 3-9-605 is amended to read as follows:

31 3-9-605. Penalties.

32 ~~(a)~~ If any facility licensed under this subchapter to sell wines for
33 consumption on the premises shall violate any of the provisions of this
34 subchapter or any of the provisions of other laws of this state regarding the
35 sales of wine at retail, the owner or operator of the facility shall be
36 guilty of a Class B misdemeanor.

1 ~~(b) Upon conviction, the owner or operator shall be fined in the sum~~
2 ~~of not less than one hundred dollars (\$100) nor more than five hundred~~
3 ~~dollars (\$500) or imprisoned in the county jail not less than ten (10) days~~
4 ~~nor more than thirty (30) days or be both so fined and imprisoned.~~

5
6 SECTION 378. Arkansas Code § 4-75-404 is amended to read as follows:

7 4-75-404. Penalties - Persons subject to penalties.

8 (a) Any person who shall violate any of the provisions of this
9 subchapter, any person who is a party to any agreement or understanding, or
10 to any contract prescribing any condition prohibited by this subchapter, any
11 employee, agent, or officer of any person who shall participate, in any
12 manner, in making, executing, enforcing, performing, or in urging, aiding, or
13 abetting in the performance of any such contract, condition, agreement, or
14 understanding, and any person who shall pay or give or contract to pay or
15 give any thing or service of value prohibited by this subchapter, and any
16 person who shall receive or accept or contract to receive or accept any thing
17 or service of value prohibited by this subchapter shall be deemed guilty of a
18 Class B misdemeanor ~~and upon conviction shall be punished by a fine not~~
19 ~~exceeding five hundred dollars (\$500) or by imprisonment in a county jail not~~
20 ~~exceeding six (6) months, or by both fine and imprisonment.~~

21 (b) Each day's violation of this subchapter shall constitute a
22 separate offense.

23
24 SECTION 379. Arkansas Code § 4-75-804 is amended to read as follows:

25 4-75-804. Penalties.

26 The sale, offer, or advertisement for sale of fresh milk in violation
27 of the provisions of §§ 4-75-801 - 4-75-806, 4-75-808, and 4-75-809 is
28 declared to be for the purpose of destroying competition and any person,
29 firm, or corporation found to be in violation hereof shall be deemed guilty
30 of a Class B misdemeanor ~~and upon conviction shall be fined not less than one~~
31 ~~hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or~~
32 ~~sentenced to the county jail for a period of not less than one (1) day nor~~
33 ~~more than thirty (30) days, or both.~~ Each day's violation shall constitute a
34 separate offense.

35
36 SECTION 380. Arkansas Code § 5-40-103 is amended to read as follows:

1 5-40-103. Removal of improvements to land after forfeiture to state.

2 (a) In all cases where any lands or town or city lots have been
3 forfeited to the State of Arkansas for the nonpayment of taxes and the title
4 of the state to any such lands or town or city lots has been confirmed
5 thereto, it shall be unlawful after the date of such confirmation decrees for
6 the former owner or any other person to remove from those lands, town, or
7 city lots any buildings, fences, or other improvements thereon or to buy or
8 sell any such building, fences, or other improvements.

9 (b) Any person violating any of the provisions of this section shall
10 be ~~deemed~~ guilty of a Class B misdemeanor ~~and upon conviction shall be fined~~
11 ~~in any sum not less than twenty five dollars (\$25.00) nor more than five~~
12 ~~hundred dollars (\$500)~~, and such person shall be liable to the State of
13 Arkansas for treble the amount of the value of the improvements, as defined
14 in subsection (a) of this section, so sold, damaged, or removed.

15
16 SECTION 381. Arkansas Code § 5-60-116 is amended to read as follows:

17 5-60-116. Breathing, inhaling, or drinking certain intoxicating
18 compounds.

19 (a) No person shall breathe, inhale, or drink any compound, liquid, or
20 chemical containing toluol, hexane, trichloroethylene, acetone, toluene,
21 ethyl acetate, methyl ethyl ketone, trichlorathane, isopropanol, methyl
22 isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other
23 similar substance or any gasoline or similar substance for the purpose of
24 inducing a condition of intoxication, stupefaction, depression, giddiness,
25 paralysis, or irrational behavior or in any manner changing, distorting, or
26 disturbing the auditory, visual, or mental processes. For the purposes of
27 this section, any condition so induced shall be deemed to be an intoxicated
28 condition.

29 (b)(1) This section shall not apply to any person who commits any act
30 described herein pursuant to the direction or prescription of a licensed
31 physician or dentist authorized to so direct or prescribe.

32 (2) Nothing contained in this section shall apply to the
33 inhalation of anesthesia for medical or dental purposes.

34 (c) Any person who shall violate any provision of this section shall
35 be guilty of a Class B misdemeanor ~~and upon conviction shall be subject to a~~
36 ~~fine of not less than one hundred dollars (\$100) nor more than two hundred~~

1 ~~dollars (\$200) or imprisonment for not less than thirty (30) days nor more~~
2 ~~than six (6) months, or both fine and imprisonment.~~

3
4 SECTION 382. Arkansas Code § 5-68-503 is amended to read as follows:
5 5-68-503. Penalties.

6 Any person violating any provision of this subchapter shall be guilty
7 of a Class B misdemeanor ~~and, upon conviction, shall be subject to a fine of~~
8 ~~not less than one hundred dollars (\$100) nor more than five hundred dollars~~
9 ~~(\$500) or imprisonment of not less than three (3) months nor more than six~~
10 ~~(6) months, or both fine and imprisonment.~~

11
12 SECTION 383. Arkansas Code § 5-72-104 is amended to read as follows:

13 5-72-104. Leaving timber in navigable stream, drainage ditch, or
14 stream bed.

15 (a) It is unlawful for any person, partnership, company, or
16 corporation cutting any timber or trees in this state to leave any tree top,
17 tree trunk, or tree limbs in any navigable stream, drainage ditch, or stream
18 bed of any improved drainage project.

19 (b) Every person, partnership, company, or corporation violating the
20 provisions of this section shall be guilty of a Class B misdemeanor ~~and upon~~
21 ~~conviction shall be subject to a fine of not less than twenty five dollars~~
22 ~~(\$25.00) nor more than two hundred fifty dollars (\$250) or imprisonment for~~
23 ~~not less than ten (10) days nor more than ninety (90) days, or both fine and~~
24 ~~imprisonment, and each violation shall constitute a separate offense.~~

25
26 SECTION 384. Arkansas Code § 6-2-113 is amended to read as follows:

27 6-2-113. Prohibition on gaming and liquor sales.

28 (a) To protect the youth assembled at institutions organized under the
29 provisions of this chapter, while removed from the customary restraints of
30 home and parental watch-care, it is declared to be a misdemeanor to entice
31 any student of such institution into the practice of gaming or to furnish any
32 student any device or instrument for gaming or any intoxicating liquors of
33 any kind whatever.

34 (b) If the institution is located in a city or any incorporated town
35 or village, where a majority of the legal voters embraced in the territory
36 within three (3) miles of the institution so decide by petition to the county

1 court, then any billiard room, bowling alley, or race course, or any device
2 or instrument for gaming, or any brothel or house of ill fame, or theatrical
3 or circus exhibition, or public place where intoxicating liquors are either
4 given away or sold, except for mechanical or medicinal purposes, within three
5 (3) miles of the site of the institution shall be prohibited by the court.

6 (c) Any person who violates such regulation established by the court
7 shall be ~~punished by fine of not less than fifty dollars (\$50.00) nor more~~
8 ~~than one thousand dollars (\$1,000), or imprisoned in the county jail not less~~
9 ~~than ten (10) days nor longer than three (3) months, or both, at the~~
10 ~~discretion of the court~~ guilty of a Class B misdemeanor.

11
12 SECTION 385. Arkansas Code § 6-20-816 is amended to read as follows:

13 6-20-816. Fees prohibited.

14 (a) No fees of any nature, fiscal agent's, legal, or otherwise, shall
15 be paid, either directly or indirectly, for any service performed with
16 respect to any loan made under the provisions of this subchapter.

17 (b) Any person who shall give or receive any such fee, or any person
18 who shall use or cause to be used the proceeds of any such loan for any
19 school purpose other than that for which it is made, shall be guilty of a
20 Class B misdemeanor ~~and upon conviction shall be fined in any sum of not more~~
21 ~~than five hundred dollars (\$500) or imprisoned in the county jail not~~
22 ~~exceeding six (6) months, or punished by both such fine and imprisonment.~~

23
24 SECTION 386. Arkansas Code § 6-21-410 is amended to read as follows:

25 6-21-410. Illegal acts involving school officials. [Effective July 1,
26 2000.]

27 (a)(1) It shall be illegal for the Director of the Department of
28 Education or any other employee connected with the Department of Education,
29 any member of any selecting committee, or any member of any school board to
30 accept or receive any money, gift, property, or favor whatsoever from any
31 person, firm, or corporation, or any agent thereof offering for sale any item
32 pursuant to this subchapter or from any person in any way interested in such
33 sale.

34 (2) Any person who pleads guilty or nolo contendere to or is
35 found guilty of violating this subsection (a) shall be ~~subject to a fine not~~
36 ~~to exceed five hundred dollars (\$500) or imprisonment in the county jail for~~

1 ~~a period not to exceed six (6) months, or both~~ guilty of a Class B
2 misdemeanor.

3 (3) Any fines collected under this subsection (a) shall be
4 deposited in the State Treasury to the credit of the Public School Fund.

5 (b)(1) It shall be illegal for any teacher in the public schools of
6 Arkansas or any person connected with the public school system of Arkansas in
7 any capacity to have any interest in the profits, proceeds, or sale of any
8 school textbooks or other instructional materials used in the schools of
9 Arkansas under his or her charge or with which he or she is connected in any
10 official capacity, provided, this provision shall not apply nor have any
11 reference to royalties or fees received by a person from the sale of school
12 books or other instructional materials of which he or she is the author.

13 (2) Any person who pleads guilty or nolo contendere to or is
14 found guilty of violating this subsection (b) shall be guilty of a violation
15 and subject to a fine of no less than fifty dollars (\$50.00) nor more than
16 two hundred dollars (\$200).

17 (3) Any fines collected under this subsection (b) shall be
18 deposited in the State Treasury to the credit of the Public School Fund.

19 (c)(1) It shall be illegal for any person directly or indirectly to
20 promise or offer to give or cause to be promised, offered, or given any
21 money, good, bribe, present, reward, or any valuable thing whatsoever to the
22 Director of the Department of Education, his or her assistants, or any other
23 employee of the Department of Education, the Director of the Department of
24 Workforce Education, his or her assistants, or any other employee of the
25 Department of Workforce Education, any school board members, teachers, or
26 other persons with the intent of influencing their decisions on any
27 questions, matters, causes, or proceedings in the selection of any textbooks
28 or other instructional materials.

29 (2) Any person who pleads guilty or nolo contendere to or is
30 found guilty of violating this subsection (c) shall be ~~subject to a fine not~~
31 ~~to exceed five hundred dollars (\$500) or imprisonment in the county jail for~~
32 ~~a period not to exceed six (6) months, or both~~ guilty of a Class B
33 misdemeanor.

34 (3) Any fines collected under this subsection (c) shall be
35 deposited in the State Treasury to the credit of the Public School Fund.

36

1 SECTION 387. Arkansas Code § 6-43-101 is amended to read as follows:
2 6-43-101. Board of trustees.

3 (a) There is created an honorary board constituting the Board of
4 Trustees of the Arkansas School for the Blind and the Arkansas School for the
5 Deaf.

6 (b)(1) The board shall consist of five (5) members.

7 (2) The Governor, by and with the advice and consent of the
8 Senate, shall appoint the members of the board.

9 (3) The Secretary of State shall furnish a certificate to each
10 board member within ten (10) days following appointment, whereupon the
11 appointee shall notify the Governor and the Secretary of State in writing of
12 his or her acceptance of the appointment within thirty (30) days, and if the
13 appointee fails to give notice of his or her acceptance within the time
14 required, then the appointment shall be declared void and another appointment
15 shall be made.

16 (c)(1) Members of the board appointed by the Governor under the
17 provisions of this section, in addition to possessing the qualifications of
18 an elector, shall reside in the State of Arkansas.

19 (2)(A) The Governor, Attorney General, Secretary of State,
20 Auditor of State, Treasurer of State, Commissioner of State Lands, Supreme
21 Court Justices, and the directing head of any state department, state agency,
22 or state institution shall be ineligible for membership on the board provided
23 for in this section during the time for which he or she was elected or
24 appointed.

25 (B) No individual may be a member of more than one (1) of
26 the boards created under the provisions of this section and § 25-17-201 at
27 the same time.

28 (3) There shall be at all times one (1) member of the board who
29 is a deaf person who fluently utilizes deaf sign language.

30 (d)(1) The term of office for each member shall commence on January 15
31 and shall end on January 14 of the fifth year following the year in which the
32 regular term commenced.

33 (2) The Governor shall submit to the Senate for approval, on or
34 before the fourteenth day following the commencement of each regular session
35 of the General Assembly, the names of all unconfirmed appointments made by
36 him or her to fill expired terms and the names of appointments to fill the

1 terms expiring during the regular session of the General Assembly. The
2 members appointed by the Governor to fill vacancies caused by the expiration
3 of the terms of members may qualify and hold office until the appointments
4 are rejected by the Senate.

5 (e) Any vacancies arising in the membership of the board for any
6 reason other than the expiration of the regular terms for which the members
7 were appointed shall be filled by the appointment of the Governor, subject to
8 the approval by a majority of the remaining members of the board, and shall
9 be thereafter effective until the expiration of the regular terms.

10 (f)(1) Before entering upon his or her respective duties, each board
11 member shall take and subscribe, and file in the office of the Secretary of
12 State, an oath to support the United States Constitution and Arkansas
13 Constitution, and to faithfully perform the duties of the office upon which
14 he or she is about to enter, and that he or she will not be or become
15 interested, directly or indirectly, in any contract made by the board.

16 (2)(A) Any violation of the oath shall be a Class B misdemeanor
17 ~~and shall be punished by a fine of not less than five hundred dollars (\$500)~~
18 ~~or by imprisonment of not less than six (6) months, or by both fine and~~
19 ~~imprisonment.~~

20 (B) Any contract entered into in violation of the oath
21 shall be null and void.

22 (g) The board of trustees shall meet at least monthly and shall fix a
23 regular date for the monthly meeting.

24 (h) Each member of the board may receive expense reimbursement in
25 accordance with § 25-16-901 et seq.

26 (i)(1) The Governor shall have the power to remove any member of the
27 board before the expiration of his or her term for cause only, after notice
28 and hearing.

29 (2) The removal shall become effective only when approved in
30 writing by a majority of the total number of the board, but the member
31 removed or his or her successor shall have no right to vote on the question
32 of removal.

33 (3) The removal action shall be filed with the Secretary of
34 State together with a complete record of the proceedings at the hearing.

35 (4)(A) An appeal may be taken to the Pulaski County Circuit
36 Court by the Governor or the member ordered removed, and the appeal shall be

1 tried de novo on the record of the hearing before the Governor.

2 (B) An appeal may be taken from the circuit court to the
3 Supreme Court, which shall likewise be tried de novo.

4
5 SECTION 388. Arkansas Code § 6-61-301 is amended to read as follows:
6 6-61-301. Incorporation generally.

7 (a)(1)(A) Individuals desiring to establish a postsecondary education
8 institution in the State of Arkansas, other than a state-supported
9 institution, a school as defined by §§ 6-51-601 et seq., or a school which is
10 regulated by the State Board of Cosmetology, shall be required to incorporate
11 under the applicable laws of the State of Arkansas and to receive
12 certification for offering educational programs from the Arkansas Higher
13 Education Coordinating Board.

14 (B) Any postsecondary education institution located in
15 another state, other than those covered by §§ 6-51-601 et seq., or those
16 regulated by the State Board of Cosmetology, which desires to offer
17 coursework or degrees in the State of Arkansas shall be required, prior to
18 offering any coursework, to obtain certification to do so from the Arkansas
19 Higher Education Coordinating Board.

20 (C) Any postsecondary education institution in the State
21 of Arkansas desiring to offer programs leading to a degree which is
22 customarily granted by colleges or universities shall be required to obtain
23 certification to grant such degree from the Arkansas Higher Education
24 Coordinating Board.

25 (2) State-supported vocational and technical schools,
26 institutions covered under §§ 6-51-601 et seq., or institutions regulated by
27 the State Board of Cosmetology shall be required to obtain approval for
28 programs in which such degrees would be granted from both the State Board of
29 Higher Education and the State Board of Education.

30 (3) Nonpublic colleges and universities currently incorporated
31 and operating under the applicable laws of this state shall not be required
32 to receive such certification.

33 (b) The Arkansas Higher Education Coordinating Board shall be
34 empowered to establish the criteria required for certification and to
35 promulgate rules and regulations for the purpose of carrying out the
36 provisions of this chapter and shall be charged with the final responsibility

1 for decisions as required by the chapter.

2 (c) Any person violating the provisions of subdivision (a)(1)(B) or
3 (C) or subsection (b) shall be guilty of a Class B misdemeanor ~~and shall,~~
4 ~~upon conviction, be fined not more than one thousand dollars (\$1,000) or be~~
5 ~~imprisoned in the county jail not more than three (3) months.~~

6 (d)(1) To secure legal existence by act of incorporation, the
7 individuals desiring to become a corporation as trustees of a college,
8 university, or other postsecondary institution shall prepare a charter for
9 the proposed institution and shall present the charter to the Arkansas Higher
10 Education Coordinating Board.

11 (2) If the Arkansas Higher Education Coordinating Board
12 determines that the charter is in accordance with the provisions of the laws
13 of the State of Arkansas and the rules and regulations of the Arkansas Higher
14 Education Coordinating Board, the board shall issue to the trustees a
15 certificate appended to a copy of the charter with the Great Seal of the
16 State of Arkansas attached.

17 (3) The certificate shall state that the accompanying charter is
18 granted to the trustees, that they have complied with the provisions of law,
19 and that they are thereby constituted the board of directors of that
20 institution and invested with all powers prescribed in the charter.

21 (4) A copy of the charter and certificate shall be filed with
22 the Secretary of State and recorded by him or her in a book to be kept for
23 the purpose.

24 (5) The Arkansas Higher Education Coordinating Board shall have
25 the power, after giving thirty (30) days' notice in writing to the trustees
26 to show cause why such action should not be taken, to revoke any
27 certification issued by the board whenever the board shall find, after proper
28 investigation, that the institution is conferring degrees or diplomas without
29 requiring sufficient work therefor or is in violation of any of the
30 provisions of the laws of this state or the regulations of the board relative
31 thereto.

32

33 SECTION 389. Arkansas Code § 6-65-201 is amended to read as follows:

34 6-65-201. Board of Trustees of Arkansas State University.

35 (a) There is created an honorary board constituting the Board of
36 Trustees of Arkansas State University.

1 (b)(1) The board shall consist of five (5) members appointed from the
2 state at large.

3 (2) The Governor, by and with the advice and consent of the
4 Senate, shall appoint the members of the board.

5 (3) The Secretary of State shall furnish a certificate to each
6 board member within ten (10) days following appointment, whereupon the
7 appointee shall notify the Governor and the Secretary of State in writing of
8 his or her acceptance of such appointment within thirty (30) days, and if
9 such appointee shall fail to give such notice of his or her acceptance within
10 the time required, then the appointment shall be declared void and another
11 appointment shall be made.

12 (c)(1) Members of the board appointed by the Governor under the
13 provisions of this section, in addition to possessing the qualifications of
14 an elector, shall reside in the State of Arkansas.

15 (2)(A) The Governor, Attorney General, Secretary of State,
16 Auditor of State, Treasurer of State, Commissioner of State Lands, Justices
17 of the Supreme Court, and the director or employees of any state department,
18 state agency, or state institution shall be ineligible for membership on the
19 board provided for in this section during the time for which he or she was
20 elected or appointed.

21 (B) No individual may be a member of more than one (1) of
22 the boards created under the provisions of § 25-17-201 at the same time.

23 (d)(1) The term of office for each member shall commence on January 15
24 and shall end on January 14 of the fifth year following the year in which the
25 regular term commenced.

26 (2) The Governor shall submit to the Senate for approval, on or
27 before the fourteenth day following the commencement of each regular session
28 of the General Assembly, the names of all unconfirmed appointments made by
29 him or her to fill expired terms and the names of appointments to fill the
30 terms expiring during the regular session of the General Assembly. The
31 members appointed by the Governor to fill vacancies caused by the expiration
32 of the terms of members may qualify and hold office until the appointments
33 are rejected by the Senate.

34 (e) Vacancies on the board shall be filled by appointments by the
35 Governor from the state at large.

36 (f) Any vacancies arising in the membership of the board for any

1 reason other than the expiration of the regular terms for which the members
2 were appointed shall be filled by the appointment of the Governor, subject to
3 the approval by a majority of the remaining members of the board and shall be
4 thereafter effective until the expiration of the regular terms.

5 (g)(1) Before entering upon his or her respective duties, each board
6 member shall take and subscribe, and file in the office of the Secretary of
7 State, an oath to support the United States Constitution and the Arkansas
8 Constitution, and to faithfully perform the duties of the office upon which
9 he or she is about to enter, and that he or she will not be or become
10 interested, directly or indirectly, in any contract made by the board.

11 (2)(A) Any violation of the oath shall be a Class B misdemeanor
12 ~~and shall be punished by a fine of not less than five hundred dollars (\$500)~~
13 ~~or by imprisonment of not less than six (6) months, or by both fine and~~
14 ~~imprisonment.~~

15 (B) Any contract entered into in violation of the oath
16 shall be null and void.

17 (h) Members of the board provided for in this section may receive
18 expense reimbursement in accordance with § 25-16-901 et seq.

19 (i)(1) The Governor shall have the power to remove any member of the
20 board before the expiration of his or her term for cause only, after notice
21 and hearing.

22 (2) The removal shall become effective only when approved in
23 writing by a majority of the total number of the board, but the member
24 removed or his or her successor shall have no right to vote on the question
25 of removal.

26 (3) The removal action shall be filed with the Secretary of
27 State together with a complete record of the proceedings at the hearing.

28 (4)(A) An appeal may be taken to the Pulaski County Circuit
29 Court by the Governor or the member ordered removed, and the appeal shall be
30 tried de novo on the record of the hearing before the Governor.

31 (B) An appeal may be taken from the circuit court to the
32 Supreme Court, which shall likewise be tried de novo.

33
34 SECTION 390. Arkansas Code § 6-65-301 is amended to read as follows:
35 6-65-301. Board of Trustees of Arkansas Tech University.

36 (a) There is created an honorary board constituting the Board of

1 Trustees of Arkansas Tech University.

2 (b)(1) The board shall consist of five (5) members to be appointed
3 from the counties in the Second Agricultural and Mechanical District.

4 (2) The Governor, by and with the advice and consent of the
5 Senate, shall appoint the members of the board.

6 (3) The Secretary of State shall furnish a certificate to each
7 board member within ten (10) days following appointment, whereupon the
8 appointee shall notify the Governor and the Secretary of State in writing of
9 his or her acceptance of such appointment within thirty (30) days, and if
10 such appointee shall fail to give such notice of his or her acceptance within
11 the time required, then the appointment shall be declared void and another
12 appointment shall be made.

13 (c)(1) Members of the board appointed by the Governor under the
14 provisions of this section, in addition to possessing the qualifications of
15 an elector, shall reside in the State of Arkansas.

16 (2)(A) The Governor, Attorney General, Secretary of State,
17 Auditor of State, Treasurer of State, Commissioner of State Lands, Justices
18 of the Supreme Court, and the director or employees of any state department,
19 state agency, or state institution shall be ineligible for membership on the
20 board provided for in this section during the time for which he or she was
21 elected or appointed.

22 (B) No individual may be a member of more than one (1) of
23 the boards created under the provisions of § 25-17-201 at the same time.

24 (d)(1) The term of office for each member shall commence on January 15
25 and shall end on January 14 of the fifth year following the year in which the
26 regular term commenced.

27 (2) The Governor shall submit to the Senate for approval, on or
28 before the fourteenth day following the commencement of each regular session
29 of the General Assembly the names of all unconfirmed appointments made by him
30 or her to fill expired terms and the names of appointments to fill the terms
31 expiring during the regular session of the General Assembly. The members
32 appointed by the Governor to fill vacancies caused by the expiration of the
33 terms of members may qualify and hold office until the appointments are
34 rejected by the Senate.

35 (e) Any vacancies arising in the membership of the board for any
36 reason other than the expiration of the regular terms for which the members

1 were appointed shall be filled by the appointment of the Governor, subject to
2 the approval by a majority of the remaining members of the board and shall be
3 thereafter effective until the expiration of the regular terms.

4 (f)(1) Before entering upon his or her respective duties, each board
5 member shall take and subscribe, and file in the office of the Secretary of
6 State, an oath to support the United States Constitution and the Arkansas
7 Constitution, and to faithfully perform the duties of the office upon which
8 he or she is about to enter, and that he or she will not be or become
9 interested, directly or indirectly, in any contract made by the board.

10 (2)(A) Any violation of the oath shall be a Class B misdemeanor
11 ~~and shall be punished by a fine of not less than five hundred dollars (\$500)~~
12 ~~or by imprisonment of not less than six (6) months, or by both fine and~~
13 ~~imprisonment.~~

14 (B) Any contract entered into in violation of the oath
15 shall be null and void.

16 (g) Members of the board provided for in this section may receive
17 expense reimbursement in accordance with § 25-16-901 et seq.

18 (h)(1) The Governor shall have the power to remove any member of the
19 board before the expiration of his or her term for cause only, after notice
20 and hearing.

21 (2) The removal shall become effective only when approved in
22 writing by a majority of the total number of the board, but the member
23 removed or his or her successor shall have no right to vote on the question
24 of removal.

25 (3) The removal action shall be filed with the Secretary of
26 State together with a complete record of the proceedings at the hearing.

27 (4)(A) An appeal may be taken to the Pulaski County Circuit
28 Court by the Governor or the member ordered removed, and the appeal shall be
29 tried de novo on the record of the hearing before the Governor.

30 (B) An appeal may be taken from the circuit court to the
31 Supreme Court, which shall likewise be tried de novo.

32
33 SECTION 391. Arkansas Code § 6-65-401 is amended to read as follows:
34 6-65-401. Board of Trustees of Southern Arkansas University.

35 (a) The Governor, by and with the advice and consent of the Senate,
36 shall appoint a board of five (5) members as trustees for Southern Arkansas

1 University.

2 (b) The board shall constitute the Board of Trustees of Southern
3 Arkansas University and shall be appointed from the counties in the Third
4 Agricultural and Mechanical College District.

5 (c)(1) All board members appointed under the provisions of this
6 section shall be qualified electors and shall reside in the State of
7 Arkansas.

8 (2) The Governor, Attorney General, Secretary of State, Auditor
9 of State, Treasurer of State, Commissioner of State Lands, and Justices of
10 the Supreme Court and the director or employees of any state department,
11 state agency, or state institution shall not be eligible for membership on
12 the board appointed under this section.

13 (d) The Governor shall submit to the Senate for approval, on or before
14 the fourteenth day following the commencement of each regular session of the
15 General Assembly, the names of all unconfirmed appointments made by him or
16 her to fill expired terms and the names of appointments to fill the terms
17 expiring during the regular session of the General Assembly. However, members
18 appointed by the Governor to fill vacancies caused by the expiration of the
19 terms of members may qualify and hold office until such appointments shall be
20 rejected by the Senate.

21 (e)(1) The Secretary of State shall furnish a certificate to each
22 board member within ten (10) days following appointment, whereupon the
23 appointee shall notify the Governor and the Secretary of State in writing of
24 his or her acceptance of the appointment within thirty (30) days.

25 (2) If the appointee fails to give such notice of his or her
26 acceptance within the time required, then the appointment shall be declared
27 void and another appointment shall be made.

28 (f)(1) The regular term of office of the members of the board to be
29 appointed by the Governor under the provisions of this section shall be
30 arranged in such a manner that the term of one (1) of the board members shall
31 expire on January 14 of each year.

32 (2) The term of office shall commence on January 15 immediately
33 following the expiration date of the preceding term and shall end on January
34 14 of the fifth year following the year in which the regular term commenced.

35 (g) Any vacancies arising in the membership of the board for any
36 reason other than the expiration of the regular terms for which the members

1 were appointed shall be filled by the appointment of the Governor, subject to
2 the approval by a majority of the remaining members of the board and shall be
3 thereafter effective until the expiration of the regular term unless the
4 appointment is rejected by the Senate at the next regular session of the
5 General Assembly.

6 (h)(1) Before entering upon his or her respective duties, each board
7 member shall take, subscribe, and file in the office of the Secretary of
8 State an oath to support the United States Constitution and the Arkansas
9 Constitution and to faithfully perform the duties of the office upon which he
10 or she is about to enter, and that he or she will not be or become
11 interested, directly or indirectly, in any contract made by the board.

12 (2)(A) Any violation of the oath shall be a Class B misdemeanor
13 ~~and the punishment for the violation shall be by fine of not less than five~~
14 ~~hundred dollars (\$500) or by imprisonment of not less than six (6) months, or~~
15 ~~by both fine and imprisonment.~~

16 (B) Any contract entered into in violation of the oath
17 shall be null and void.

18 (i)(1) The Governor shall have the power to remove any member of the
19 board before the expiration of his or her term for cause only, after notice
20 and hearing.

21 (2) The removal shall become effective only when approved in
22 writing by a majority of the total number of the board, but without the right
23 to vote by the member to be removed or his or her successor, which action
24 shall be filed with the Secretary of State with a complete record of the
25 proceedings at the hearing.

26 (3)(A) An appeal may be taken to the Pulaski County Circuit
27 Court by the Governor or the member ordered removed, and the cause shall be
28 tried de novo on the record of the hearing before the Governor.

29 (B) An appeal may be taken from the circuit court to the
30 Supreme Court, which shall likewise be tried de novo.

31

32 SECTION 392. Arkansas Code § 6-66-101 is amended to read as follows:
33 6-66-101. Board of Trustees of Henderson State University.

34 (a) There is created an honorary board constituting the Board of
35 Trustees of Henderson State University, which is made and continued a body
36 politic and corporate.

1 (b)(1) The board shall consist of seven (7) members.

2 (2) The Governor, by and with the advice and consent of the
3 Senate, shall appoint the members of the board.

4 (3) The Secretary of State shall furnish a certificate to each
5 board member within ten (10) days following appointment, whereupon the
6 appointee shall notify the Governor and the Secretary of State in writing of
7 his or her acceptance of such appointment within thirty (30) days, and if
8 such appointee shall fail to give such notice of his or her acceptance within
9 the time required, then the appointment shall be declared void and another
10 appointment shall be made.

11 (c)(1) Members of the board appointed by the Governor under the
12 provisions of this section, in addition to possessing the qualifications of
13 an elector, shall reside in the State of Arkansas.

14 (2)(A) The Governor, Attorney General, Secretary of State,
15 Auditor of State, Treasurer of State, Commissioner of State Lands, Justices
16 of the Supreme Court, and the director or employees of any state department,
17 state agency, or state institution shall be ineligible for membership on the
18 board provided for in this section during the time for which he or she was
19 elected or appointed.

20 (B) No individual may be a member of more than one (1) of
21 the boards created under the provisions of § 25-17-201 at the same time.

22 (d)(1) The term of office for each member shall commence on January 15
23 and shall end on January 14 of the seventh year following the year in which
24 the regular term commenced.

25 (2) The Governor shall submit to the Senate for approval, on or
26 before the fourteenth day following the commencement of each regular session
27 of the General Assembly the names of all unconfirmed appointments made by him
28 or her to fill expired terms and the names of appointments to fill the terms
29 expiring during the regular session of the General Assembly. The members
30 appointed by the Governor to fill vacancies caused by the expiration of the
31 terms of members may qualify and hold office until the appointments are
32 rejected by the Senate.

33 (e) Any vacancies arising in the membership of the board for any
34 reason other than the expiration of the regular terms for which the members
35 were appointed shall be filled by the appointment of the Governor, subject to
36 the approval by a majority of the remaining members of the board, and shall

1 be thereafter effective until the expiration of the regular terms.

2 (f)(1) Before entering upon his or her respective duties, each board
3 member shall take and subscribe and file in the office of the Secretary of
4 State an oath to support the United States Constitution and the Arkansas
5 Constitution, and to faithfully perform the duties of the office upon which
6 he or she is about to enter, and that he or she will not be or become
7 interested, directly or indirectly, in any contract made by the board.

8 (2)(A) Any violation of the oath shall be a Class B misdemeanor
9 ~~and shall be punished by a fine of not less than five hundred dollars (\$500)~~
10 ~~or by imprisonment of not less than six (6) months, or by both fine and~~
11 ~~imprisonment.~~

12 (B) Any contract entered into in violation of the oath
13 shall be null and void.

14 (g)(1)(A) There shall be one (1) regular meeting of the board each
15 year to be held within thirty (30) days after the close of commencement week.

16 (B) Called meetings may be held at the request of the
17 president or of any two (2) members of the board if at least seven (7) days'
18 written notice is given in advance to each member of the called meeting,
19 except in cases of emergency, when three (3) days' notice will suffice.

20 (2) The board shall elect from its members a chair who shall
21 preside at the meetings of the board, a vice chair who shall preside at the
22 meetings of the board in the absence of the regular chair, and a secretary
23 who shall keep the records of the meetings of the board. The secretary need
24 not be a member of the board.

25 (3) A majority of the board shall constitute a quorum.

26 (4) Members of the board provided for in this section may
27 receive expense reimbursement in accordance with § 25-16-901 et seq.

28 (h)(1) The Governor shall have the power to remove any member of the
29 board before the expiration of his or her term for cause only, after notice
30 and hearing.

31 (2) The removal shall become effective only when approved in
32 writing by a majority of the total number of the board, but the member
33 removed or his or her successor shall have no right to vote on the question
34 of removal.

35 (3) The removal action shall be filed with the Secretary of
36 State together with a complete record of the proceedings at the hearing.

1 (4)(A) An appeal may be taken to the Pulaski County Circuit
2 Court by the Governor or the member ordered removed, and the appeal shall be
3 tried de novo on the record of the hearing before the Governor.

4 (B) An appeal may be taken from the circuit court to the
5 Supreme Court, which shall likewise be tried de novo.

6
7 SECTION 393. Arkansas Code § 6-67-102 is amended to read as follows:
8 6-67-102. Board of Trustees of the University of Central Arkansas.

9 (a) There is created an honorary board constituting the Board of
10 Trustees of the University of Central Arkansas, which is made and constituted
11 a body politic and corporate.

12 (b)(1) The board shall consist of seven (7) members.

13 (2) The Governor, by and with the advice and consent of the
14 Senate, shall appoint the members of the board.

15 (3) The Secretary of State shall furnish a certificate to each
16 board member within ten (10) days following appointment, whereupon the
17 appointee shall notify the Governor and the Secretary of State in writing of
18 his or her acceptance of such appointment within thirty (30) days, and if
19 such appointee shall fail to give such notice of his or her acceptance within
20 the time required, then the appointment shall be declared void and another
21 appointment shall be made.

22 (c)(1) Members of the board appointed by the Governor under the
23 provisions of this section, in addition to possessing the qualifications of
24 an elector, shall reside in the State of Arkansas.

25 (2)(A) The Governor, Attorney General, Secretary of State,
26 Auditor of State, Treasurer of State, Commissioner of State Lands, Justices
27 of the Supreme Court, and the director or employees of any state department,
28 state agency, or state institution shall be ineligible for membership on the
29 board provided for in this section during the time for which he or she was
30 elected or appointed.

31 (B) No individual may be a member of more than one (1) of
32 the boards created under the provisions of § 25-17-201 at the same time.

33 (d)(1) The term of office for each member shall commence on January 15
34 and shall end on January 14 of the seventh year following the year in which
35 the regular term commenced.

36 (2) The Governor shall submit to the Senate for approval, on or

1 before the fourteenth day following the commencement of each regular session
2 of the General Assembly, the names of all unconfirmed appointments made by
3 him or her to fill expired terms and the names of appointments to fill the
4 terms expiring during the regular session of the General Assembly. The
5 members appointed by the Governor to fill vacancies caused by the expiration
6 of the terms of members may qualify and hold office until the appointments
7 are rejected by the Senate.

8 (e) Any vacancies arising in the membership of the board for any
9 reason other than the expiration of the regular terms for which the members
10 were appointed shall be filled by the appointment of the Governor, subject to
11 the approval by a majority of the remaining members of the board, and shall
12 be thereafter effective until the expiration of the regular terms.

13 (f)(1) Before entering upon his or her respective duties, each board
14 member shall take and subscribe, and file in the office of the Secretary of
15 State, an oath to support the United States Constitution and the Arkansas
16 Constitution to faithfully perform the duties of the office upon which he or
17 she is about to enter, and that he or she will not be or become interested,
18 directly or indirectly, in any contract made by the board.

19 (2)(A) Any violation of the oath shall be a Class B misdemeanor
20 ~~and shall be punished by a fine of not less than five hundred dollars (\$500)~~
21 ~~or by imprisonment of not less than six (6) months, or by both fine and~~
22 ~~imprisonment.~~

23 (B) Any contract entered into in violation of the oath
24 shall be null and void.

25 (g)(1)(A) There shall be one (1) regular meeting of the board each
26 year, to be held within thirty (30) days after the close of commencement
27 week.

28 (B) Called meetings may be held at the request of the
29 president or of any two (2) members of the board if at least seven (7) days'
30 written notice is given in advance to each member of the called meeting,
31 except in cases of emergency, when three (3) days' notice is sufficient.

32 (2) The board shall elect from its members a chair who shall
33 preside at the meetings of the board, a vice chair who shall preside at the
34 meetings of the board in the absence of the regular chair, and a secretary
35 who shall keep the records of the meetings of the board. The secretary need
36 not be a member of the board.

1 (3) A majority of the board shall constitute a quorum.

2 (4) Members of the board provided for in this section may
3 receive expense reimbursement in accordance with § 25-16-901 et seq.

4 (h)(1) The Governor shall have the power to remove any member of the
5 board before the expiration of his or her term for cause only, after notice
6 and hearing.

7 (2) The removal shall become effective only when approved in
8 writing by a majority of the total number of the board, but the member
9 removed or his or her successor shall have no right to vote on the question
10 of removal.

11 (3) The removal action shall be filed with the Secretary of
12 State together with a complete record of the proceedings at the hearing.

13 (4)(A) An appeal may be taken to the Pulaski County Circuit
14 Court by the Governor or the member ordered removed, and the appeal shall be
15 tried de novo on the record of the hearing before the Governor.

16 (B) An appeal may be taken from the circuit court to the
17 Supreme Court, which shall likewise be tried de novo.

18

19 SECTION 394. Arkansas Code § 7-6-105 is amended to read as follows:

20 7-6-105. Use of sound equipment – Penalty for interference.

21 (a) When any citizen of Arkansas becomes a candidate in any primary or
22 general election and complies with all the laws pertaining thereto, then the
23 candidate shall be entitled to go into any city, town, municipality, or rural
24 community in Arkansas and operate his acoustical or sound equipment between
25 the hours of 8:00 a.m. and 9:00 p.m. notwithstanding any town or city
26 ordinance to the contrary.

27 (b) Any person who interferes in any manner with the right granted in
28 this section shall be ~~fin~~ed in any sum not less than fifty dollars (\$50.00)
29 ~~nor more than two hundred fifty dollars (\$250) or imprisoned in the county~~
30 ~~jail for a period of not less than one (1) month nor more than six (6)~~
31 ~~months, or both~~ guilty of a Class B misdemeanor.

32

33 SECTION 395. Arkansas Code § 16-43-212 is amended to read as follows:

34 16-43-212. Criminal proceedings - Issuance of subpoenas pursuant to
35 investigations.

36 (a) The prosecuting attorneys and their deputies may issue subpoenas

1 in all criminal matters they are investigating and may administer oaths for
2 the purpose of taking the testimony of witnesses subpoenaed before them.
3 Such oath when administered by the prosecuting attorney or his or her deputy
4 shall have the same effect as if administered by the foreman of the grand
5 jury. The subpoena shall be substantially in the following form:

6 "The State of Arkansas to the Sheriff of _____ County: You are
7 commanded to summon _____ to attend before the Prosecuting Attorney at
8 _____ on the _____, A.D. ~~1920~~, at _____.M., and testify in the
9 matter of an investigation then to be conducted by the said Prosecuting
10 Attorney growing out of a representation that _____ has committed the
11 crime of _____ in said County. Witness my hand this _____ A.D. ~~19~~
12 20 .

13
14 _____
15 Prosecuting Attorney

16
17 By _____
18 Deputy Prosecuting Attorney"
19

20 (b) The subpoena provided for in subsection (a) of this section shall
21 be served in the manner as provided by law and shall be returned, and a
22 record made and kept, as provided by law for grand jury subpoenas. The fees
23 and mileage of officers serving the subpoenas and of witnesses in appearances
24 in answer to the subpoenas shall be the same, and shall be paid in the same
25 manner, as provided by law for grand jury witnesses.

26 (c) The failure of any officer to serve the subpoena or of a witness
27 to appear on the returned date thereof shall constitute a Class B misdemeanor
28 ~~and be punishable by fine of not less than ten dollars (\$10.00) nor more than~~
29 ~~one hundred dollars (\$100) or by imprisonment in the county jail not to~~
30 ~~exceed six (6) months, or by both such fine and imprisonment.~~

31
32 SECTION 396. Arkansas Code § 16-43-602 is amended to read as follows:
33 16-43-602. Penalty.

34 Any person who refuses to give testimony after an order has been issued
35 by the circuit court for the judicial district in which the proceeding is or
36 may be held directing him or her to give such testimony, as provided in this

1 subchapter, shall be ~~punished by a fine not to exceed the sum of fifty~~
2 ~~dollars (\$50.00) or imprisonment in the county jail for a period not to~~
3 ~~exceed ninety (90) days, or both~~ guilty of a Class B misdemeanor. Each
4 refusal of the witness to so testify shall constitute a separate offense.

5
6 SECTION 397. Arkansas Code § 16-105-203 is amended to read as follows:
7 16-105-203. Penalties.

8 (a) If any person shall break into or enter or use any building or
9 place while closed under a preliminary injunction granted under the
10 provisions of this subchapter, or shall violate any permanent injunction
11 under the provisions of this subchapter, he or she shall be subject to
12 punishment for contempt.

13 (b) Upon conviction for the contempt, the person shall be ~~imprisoned~~
14 ~~in the county jail not less than thirty (30) days nor more than six (6)~~
15 ~~months and may also be fined in any sum not exceeding fifty dollars (\$50.00)~~
16 guilty of a Class B misdemeanor. The building or place shall be closed and
17 not thereafter used for any purpose whatever for a period of twelve (12)
18 months, except by order of the court having cognizance of the case.

19
20 SECTION 398. Arkansas Code § 17-32-103 is amended to read as follows:
21 17-32-103. Penalty.

22 Any person who violates this chapter or who does any of the following
23 shall be guilty of a Class B misdemeanor, ~~punishable by a fine of not less~~
24 ~~than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or~~
25 ~~imprisonment for a period not exceeding three (3) months, or both:~~

26 (1) Publicly practices or offers to publicly practice geology
27 for others in this state without being registered in accordance with this
28 chapter;

29 (2) Presents or attempts to use as his or her own the
30 certificate of registration or the seal of another;

31 (3) Gives any false or forged evidence of any kind to the State
32 Board of Registration for Professional Geologists or to any member of the
33 board in obtaining a certificate of registration;

34 (4) Falsely impersonates any other registrant of like or
35 different name; or

36 (5) Attempts to use an expired or revoked certificate of

1 registration or attempts to practice at any time during a period when the
2 board has suspended or revoked his or her certificate of registration.

3
4 SECTION 399. Arkansas Code § 17-44-102 is amended to read as follows:

5 17-44-102. Records of copper purchases.

6 (a) Every owner, keeper, or proprietor of junk shop, junk store,
7 salvage yard, scrap yard, or possessor of a junk car or other vehicle, or
8 both, and collector or dealer in junk salvage or other second-hand property,
9 shall prepare and maintain records of all purchases in excess of twenty-five
10 dollars (\$25.00) of copper or copper alloy.

11 (b) The records shall:

12 (1) Contain:

13 (A) The name and address of the one from whom the purchase
14 was made;

15 (B) The license tag number of the vehicle in which the
16 copper or copper alloy is delivered; ~~and~~

17 (C) The quantity of copper or copper alloy purchased; ~~and~~

18 (2) Be kept for a period of three (3) years; and

19 (3) Be made available to any law enforcement officer at any time
20 during regular business hours.

21 (c) Any person, partnership, firm, or corporation failing to maintain
22 any records required under this section shall upon conviction be guilty of a
23 Class B misdemeanor ~~and shall be fined not less than one hundred dollars~~
24 ~~(\$100) nor more than five hundred dollars (\$500) or imprisoned in the county~~
25 ~~jail for a period not to exceed six (6) months, or subject to both fine and~~
26 ~~imprisonment.~~

27 (d) Any person who shall knowingly give false information with respect
28 to the matters required to be maintained in the records provided for in this
29 section shall be guilty of a Class B misdemeanor ~~and shall be fined not less~~
30 ~~than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or~~
31 ~~imprisoned in the county jail for a period not to exceed six (6) months, or~~
32 ~~subject to both fine and imprisonment.~~

33
34 SECTION 400. Arkansas Code § 17-44-105 is amended to read as follows:

35 17-44-105. Records of aluminum purchases.

36 (a)(1) Every scrap metal dealer, junk yard operator, or operator of

1 any junk shop, junk store, salvage yard, scrap yard, or other collector or
2 dealer in junk salvage shall prepare and maintain records of all purchases in
3 excess of twenty-five dollars (\$25.00) of aluminum irrigation pipe, aluminum
4 utility wire, aluminum traffic delineators, aluminum posts, aluminum guard
5 rails, aluminum bridge rails, or aluminum traffic signs, hereinafter referred
6 to in this section as aluminum products.

7 (2) The records shall contain:

8 (A) The seller's full name, address, driver's license
9 number, and social security number;

10 (B) The license tag number of the vehicle in which the
11 aluminum products were delivered;

12 (C) The quantity of aluminum products purchased;

13 (D) The date of the purchase; and

14 (E) The amount in money or other consideration paid for
15 the aluminum products.

16 (b)(1) The records herein provided for shall be kept for a period of
17 three (3) years.

18 (2) The records shall be made available to any law enforcement
19 officer at any time during regular business hours.

20 (c) Any person may notify dealers or purchasers of scrap metals of a
21 known or presumed theft of aluminum products setting forth any information
22 concerning the theft as might be available to that person, including, but not
23 limited to:

24 (1) The approximate quantity and size of the aluminum products
25 stolen;

26 (2) The geographical area from which the aluminum products were
27 reported missing or presumed stolen; and

28 (3) Any specific distinguishing marks on or in the aluminum
29 products, or other method of identifying the aluminum products.

30 (d) If notice is given to a dealer or purchaser and, subsequent
31 thereto, aluminum products meeting that description are purchased by the
32 dealer or offered for sale to the dealer, then the dealer shall notify the
33 local police, if within a municipality, or sheriff's department, if outside a
34 municipality, that the aluminum products were purchased by or offered for
35 sale to the dealer.

36 (e)(1) Any person, partnership, firm, or corporation failing to

1 maintain any records required under this section shall upon conviction
2 thereof be guilty of a Class B misdemeanor ~~and shall be fined not less than~~
3 ~~one hundred dollars (\$100) nor more than five hundred dollars (\$500) or~~
4 ~~imprisoned in the county jail for a period not to exceed six (6) months, or~~
5 ~~both fine and imprisonment.~~

6 (2) Any person who shall knowingly give false information with
7 respect to the matters required to be maintained in the records provided for
8 in subsections (a) and (b) of this section shall be guilty of a Class A
9 misdemeanor ~~and shall be fined an amount not to exceed one thousand dollars~~
10 ~~(\$1000) or imprisoned for not less than six (6) months nor more than one (1)~~
11 ~~year in jail, or both fine and imprisonment.~~

12
13 SECTION 401. Arkansas Code § 17-48-102 is amended to read as follows:

14 17-48-102. Penalties – Enforcement.

15 (a)(1) Unless a different penalty is specifically provided, any person
16 who violates any of the provisions of this chapter shall be deemed guilty of
17 a Class B misdemeanor ~~and upon conviction shall be punished by a fine of not~~
18 ~~less than one hundred dollars (\$100) nor more than five hundred dollars~~
19 ~~(\$500) or imprisonment in the county jail for a term of not less than thirty~~
20 ~~(30) days nor more than six (6) months, or by both.~~

21 (2) It shall be the duty of all duly constituted officers of the
22 state and all of its political subdivisions to enforce the provisions of this
23 chapter and prosecute any persons violating them.

24 (b)(1) The State Board of Registration for Professional Engineers and
25 Land Surveyors is authorized to levy a civil penalty against any registered
26 engineer or land surveyor or land surveyor-in-training who is found guilty of
27 any fraud or deceit in his or her practice or in securing a certificate of
28 registration, or of gross negligence, incompetence, misconduct, or who fails
29 or refuses to comply with any laws relating to the registration and practice
30 of engineers, land surveyors, or surveyors-in-training or any rules or
31 regulations adopted by the board pursuant to the authority granted in such
32 laws.

33 (2) Any civil penalty levied by the board may be in lieu of or
34 in addition to any other sanction which may be imposed by the board.

35 (3) No civil penalty assessed by the board shall be less than
36 twenty-five dollars (\$25.00) nor more than two thousand dollars (\$2,000).

1 (c) The Attorney General or his or her assistants shall act as legal
2 advisors to the board and render such legal assistance as may be necessary.

3 (d) The board may employ counsel to enforce this chapter, the costs to
4 be paid from the funds of the board.

5
6 SECTION 402. Arkansas Code § 17-93-103 is amended to read as follows:
7 17-93-103. Penalties.

8 (a) Any person violating the provisions of this chapter shall be
9 guilty of a Class B misdemeanor ~~and upon conviction shall be punished by a~~
10 ~~fine of not less than one hundred dollars (\$100) nor more than five hundred~~
11 ~~dollars (\$500) or by imprisonment in the county jail for a period of not less~~
12 ~~than one (1) month nor more than six (6) months, or by both fine and~~
13 ~~imprisonment.~~

14 (b) Each day of violation shall constitute a separate offense.
15

16 SECTION 403. Arkansas Code § 2-20-305 is amended to read as follows:
17 2-20-305. Penalties.

18 ~~(a)~~ Each person who by himself or herself or through his or her agents
19 or employees violates any of the provisions of this subchapter, shall, for
20 each offense, be deemed guilty of a Class C misdemeanor.

21 ~~(b)(1) Upon conviction, an offender shall be punished by a fine:~~

22 ~~(A) Not exceeding twenty five dollars (\$25.00) nor less~~
23 ~~than ten dollars (\$10.00) for the first offense;~~

24 ~~(B) Not exceeding fifty dollars (\$50.00) nor less than~~
25 ~~twenty five dollars (\$25.00) or thirty (30) days in jail for the second~~
26 ~~offense; and~~

27 ~~(C) Not exceeding two hundred dollars (\$200) nor less than~~
28 ~~one hundred dollars (\$100) or thirty (30) days in jail, or both, for the~~
29 ~~third and all subsequent offenses.~~

30 ~~(2) An offender shall also be liable for all costs for each and~~
31 ~~every offense.~~

32
33 SECTION 404. Arkansas Code § 2-40-1001 is amended to read as follows:
34 2-40-1001. Penalty for stock crossing lines.

35 (a) Any owner of stock who shall allow his or her stock to drift
36 across a quarantine line which has been established by law shall be guilty of

1 a Class C misdemeanor ~~and subject to arrest and fine of from one dollar~~
2 ~~(\$1.00) to twenty five dollars (\$25.00).~~

3 (b) This section shall apply only to residents living on land and
4 owning cattle adjoining lines or within five (5) miles of the lines and shall
5 not apply to dealers or their agents who are driving the cattle out of
6 quarantine territory.

7
8 SECTION 405. Arkansas Code § 3-3-202 is amended to read as follows:

9 3-3-202. Knowingly furnishing or selling to minor.

10 (a)(1) It shall be unlawful for any person knowingly to give, procure,
11 or otherwise furnish any alcoholic beverage to any person under twenty-one
12 (21) years of age. However, this section shall not apply to the serving of
13 such to one's family or to the use of wine in any religious ceremony or rite
14 in any established church or religion.

15 (2) Any person violating this subsection shall, upon a first
16 conviction, be deemed guilty of a Class C misdemeanor ~~and shall be fined not~~
17 ~~more than five hundred dollars (\$500) or imprisoned for not more than ten~~
18 ~~(10) days, or both fined and imprisoned.~~ Upon a second conviction within
19 three (3) years, a person violating this section shall be deemed guilty of a
20 Class D felony ~~and may be imprisoned in the Department of Corrections for not~~
21 ~~less than one (1) year nor more than five (5) years and shall be fined not~~
22 ~~more than five hundred dollars (\$500), or both.~~

23 (b)(1) It shall be unlawful for any person knowingly to sell or
24 otherwise furnish for money or other valuable consideration any alcoholic
25 beverage to any person under twenty-one (21) years of age.

26 (2)(A) Any person violating this subsection shall, upon a first
27 conviction, be deemed guilty of a Class D felony and shall be punished as
28 provided by law.

29 (B) Upon a second conviction within five (5) years, a
30 person violating this section shall be deemed guilty of a Class C felony and
31 may be imprisoned or fined, or both as provided by law.

32 (c)(1) A warning notice that includes the provisions of subsections
33 (a) and (b) of this section shall be posted in public view in each place of
34 business where alcoholic beverages are sold.

35 (2) The warning notice shall be posted in a manner prescribed by
36 the Alcoholic Beverage Control Board.

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SECTION 406. Arkansas Code § 3-8-310 is amended to read as follows:

3-8-310. Effect of voting for or against sale - Penalty for unlawful sales.

(a)(1) Whenever a local option election shall be held in any county, city, town, district, or precinct in this state and a majority of the votes cast at the election shall be in favor of prohibiting the sale of liquor in the territory in which the election shall have been held, the law prohibiting the sale shall be in full force and effect at the expiration of sixty (60) days from the date of the entry of the certificate of the canvassing board in the record of the county court.

(2) After the expiration of sixty (60) days, no liquor license theretofore issued in the territory under the laws of this state shall be of any force or effect whatever, but the owner of the license shall be entitled to recover from the county, city, town, district, or precinct to which the license money was paid, the proportional part thereof as the unexpired period of license bears to the whole of the year.

(b)(1) Any person who shall, after the sixty (60) days, sell, barter, or loan, directly or indirectly, any such liquors in the city, county, town, district, or precinct, shall upon conviction be ~~fined not less than sixty dollars (\$60.00) nor more than one hundred dollars (\$100) and be confined in the county jail for not less than twenty (20) nor more than forty (40) days for each offense~~ guilty of a Class C misdemeanor.

(2) Any person who knowingly furnishes or rents a house, room, wagon, or any conveyance or thing in which spirituous, vinous, or malt liquors are sold, bartered, or loaned, in violation of this act, shall upon conviction thereof be guilty of a violation and fined not less than sixty dollars (\$60.00) nor more than one hundred dollars (\$100). The house, wagon, vehicle, or other thing in which the liquors were sold, bartered, or loaned shall be liable for all fines adjudged against the person selling, bartering, or loaning the same.

(c) In the event that a majority of the votes cast at the election shall be in favor of the sale of liquors, then no license shall be granted to any person, firm, or corporation to sell such liquors in the territory until after the expiration of the aforesaid sixty (60) days, if the issuing of the liquor license was in that territory prohibited by law prior to the holding

1 of the election.

2

3 SECTION 407. Arkansas Code § 3-8-311 is amended to read as follows:

4 3-8-311. Sale, barter, or loan in dry territory - Penalties.

5 (a)(1) It shall be unlawful for anyone to sell, barter, or loan,
6 directly or indirectly, any beverage containing any alcohol or any liquid
7 mixture or decoction of any kind which produces or causes intoxication in any
8 county, city, town, district, or precinct in which the sale, barter, or loan
9 of spirituous, vinous, or malt liquors is or shall be prohibited in
10 accordance with the local option law.

11 (2) Any sale, barter, or loan of any article with the agreement,
12 expressed or implied, that the right or title to or possession of any such
13 beverage, liquid mixture, or decoction shall also pass, shall be considered a
14 sale, barter, or loan within the terms of this subsection.

15 (3) Any person who shall sell, barter, or loan, directly or
16 indirectly, any such beverage, liquid mixture, or decoction in any such
17 county, city, town, or precinct, shall, upon conviction, be guilty of a
18 violation and fined the sum of not less than twenty dollars (\$20.00) nor more
19 than one hundred dollars (\$100) for each offense.

20 (b) It shall be unlawful for any person to sell, lend, give, procure
21 for, or furnish to another, any spirituous, vinous, or malt liquors, or to
22 have in his or her possession spirituous, vinous, or malt liquors, for the
23 purpose of selling them in any territory where this act is in force. Any
24 person so offending shall be ~~fined not less than fifty dollars (\$50.00) nor~~
25 ~~more than one hundred dollars (\$100) and imprisoned not less than ten (10)~~
26 ~~nor more than fifty (50) days~~ guilty of a Class C misdemeanor.

27 (c) The possession of a United States special tax stamp commonly
28 called United States license for carrying on the business of a retail dealer
29 in spirituous, vinous, or malt liquors, or the having of the tax permit
30 issued by the Director of the Department of Finance and Administration or
31 license at the place of business in the territory shall be prima facie
32 evidence of guilt under this section.

33 (d) Nothing herein shall prohibit the sale, barter, loan, or having in
34 the custody or possession of any person any beverage, liquid mixture, or
35 decoction for the sale of which the United States does not require the
36 payment of the special tax on retail liquor dealers.

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SECTION 408. Arkansas Code § 5-37-501 is amended to read as follows:

5-37-501. Animals -- Altering teeth or failing to disclose defects.

(a) It is declared to be unlawful for any person, in any manner whatever, to change or alter or cause to be changed or altered the teeth of any mule, horse, or other livestock, with an intention to deceive one to whom the livestock is offered for sale.

(b) Anyone who with the intent to defraud or cheat another shall designedly represent any livestock which he or she offers for sale to another as being of a markedly superior quality, or who fails to reveal material physical defects of the animal, when selling the animal to another, shall be guilty of a Class C misdemeanor ~~and be punished as specified in this section.~~

~~(c) Violation of the provisions of this section shall be punished by imprisonment in the county jail for not more than thirty (30) days or by a fine of not less than ten dollars (\$ 10.00) nor more than one hundred fifty dollars (\$ 150), or both.~~

SECTION 409. Arkansas Code § 5-51-305 is amended to read as follows:

5-51-305. Unlawful entry on property.

(a) It shall be unlawful for any person to enter upon the enclosed premises of another, without permission of the owner, for the purpose of committing an act declared by this subchapter to be unlawful.

(b) Whoever shall violate the provisions of this section shall be deemed guilty of a Class C misdemeanor ~~criminal offense and punished by imprisonment for not more than ten (10) days or by a fine of not more than fifty dollars (\$50.00), or by both fine and imprisonment, in the discretion of the court or jury trying the case.~~

SECTION 410. Arkansas Code § 16-10-108 is amended to read as follows:

16-10-108. Contempt.

(a) Every court of record shall have power to punish, as for criminal contempt, persons guilty of the following acts, and no others:

(1) Disorderly, contemptuous, or insolent behavior committed during the court's sitting, in its immediate view and presence, and directly tending to interrupt its proceedings or to impair the respect due to its authority;

1 (2) Any breach of the peace, noise, or disturbance directly
2 tending to interrupt its proceedings;

3 (3) Willful disobedience of any process or order lawfully issued
4 or made by it;

5 (4) Resistance, willfully offered, by any person to the lawful
6 order or process of the court; and

7 (5) The contumacious and unlawful refusal of any person to be
8 sworn as a witness and, when so sworn, a similar refusal to answer any legal
9 and proper interrogatory.

10 (b)(1) ~~Punishments~~ Punishment for contempt ~~may be by fine or~~
11 ~~imprisonment in the jail of the county where the court may be sitting, or~~
12 ~~both, in the discretion of the court. However, the fines shall in no case~~
13 ~~exceed the sum of fifty dollars (\$50.00) nor the imprisonment ten (10) days~~
14 is a Class C misdemeanor.

15 (2) Courts shall always have power to imprison until their
16 adjournment.

17 (3) When any person is committed to prison for the nonpayment of
18 any such fine, he or she shall be discharged at the expiration of thirty (30)
19 days.

20 (c) Contempts committed in the immediate view and presence of the
21 court may be punished summarily. In other cases, the party charged shall be
22 notified of the accusation and shall have a reasonable time to make his or
23 her defense.

24 (d)(1) Whenever any person is committed for a contempt under the
25 provisions of this section, the substance of his or her offense shall be set
26 forth in the order or warrant of commitment.

27 (2) Nothing in subdivision (d)(1) of this section shall be
28 construed to extend to any proceedings against parties or officers, as for
29 contempt, for the purpose of enforcing any civil right or remedy.

30 (e) A person punished for contempt under the preceding subsections
31 shall, notwithstanding, be liable to an indictment for the contempt if the
32 contempt is an indictable offense, but the court before which a conviction
33 may be had on such an indictment shall, in forming its sentence, take into
34 consideration the punishment previously inflicted.

35
36 SECTION 411. Arkansas Code § 16-15-106 is amended to read as follows:

1 16-15-106. Punishment for contempt.

2 The county court of each county, for an interruption of its
3 proceedings, or any contempt offered it while in session, shall have the
4 power to impose a ~~fine not exceeding fifty dollars (\$50.00) and to imprison~~
5 ~~the offender or offenders for each offense, not exceeding twenty four (24)~~
6 ~~hours~~ Class C misdemeanor.

7
8 SECTION 412. Arkansas Code § 16-81-107 is amended read as follows:

9 16-81-107. Procedures of arrest.

10 (a) An arrest is made by placing the person of the defendant in
11 restraint or by his or her submitting to the custody of the person making the
12 arrest.

13 (b) No unnecessary force or violence shall be used in making the
14 arrest.

15 (c) To make an arrest, ~~an~~ a law enforcement officer may break open the
16 door of a house in which the defendant may be, after having demanded
17 admittance and explained the purpose for which admittance is desired.

18 (d) ~~An~~ A law enforcement officer making an arrest may orally summon as
19 many persons as he or she deems necessary to aid him or her in making the
20 arrest, and all persons failing, without reasonable excuse, to obey the
21 summons shall be guilty of Class C misdemeanors ~~and punished by fine and~~
22 ~~imprisonment, or either.~~

23 (e) The person making the arrest shall inform the person about to be
24 arrested of the intention to arrest him or her and the offense charged
25 against him or her for which he or she is to be arrested and, if acting under
26 a warrant of arrest, shall give information thereof and, if required, show
27 the warrant.

28 (f) The law enforcement officer making an arrest in obedience to a
29 warrant shall proceed with the defendant as directed by the warrant.

30
31 SECTION 413. Arkansas Code § 25-19-104 is amended to read as follows:

32 25-19-104. Penalty.

33 Any person who negligently violates any of the provisions of this
34 chapter shall be guilty of a Class C misdemeanor ~~and shall be punished by a~~
35 ~~fine of not more than two hundred dollars (\$200) or thirty (30) days in jail,~~
36 ~~or both, or a sentence of appropriate public service or education, or both.~~

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SECTION 414. Arkansas Code § 5-73-211 is amended to read as follows:

5-73-211. Perpetrating or attempting crime.

Possession or use of a machine gun in the ~~perpetration or attempted~~
~~perpetration of a crime of violence is declared to be a crime punishable by~~
~~imprisonment in the State Penitentiary for a term of not less than twenty~~
~~(20) years~~ course of a criminal offense is a Class A felony.

SECTION 415. Arkansas Code § 4-56-102 is amended to read as follows:

4-56-102. Unlawful acts relating to secured interests on certain farm products.

(a) It shall be unlawful for any person who buys soybeans, corn, wheat, rice, or milo from a person engaged in farming operations, or for any commission merchant or selling agent who sells soybeans, corn, wheat, rice, or milo for a person engaged in farming operations for a fee or commission, to knowingly fail to include as joint payee on the check or other instrument issued in payment for the farm products the name of any person disclosed by the seller as having a security interest in the farm products.

(b) It shall be unlawful for any person engaged in farming operations who sells soybeans, corn, wheat, rice, or milo to knowingly fail to disclose the names of any parties having a security interest in the farm products before accepting payment of the proceeds of the sale.

(c)(1) It shall be unlawful for a person who owes payment or other performance of an obligation under a security agreement to sell or otherwise dispose of soybeans, corn, wheat, rice, or milo used as collateral or any part thereof and to knowingly fail to pay to the secured party the amount of the proceeds from such sale or other disposition if the person:

(A) Has no right to sell or otherwise dispose of the farm products used as collateral; or

(B) Has the right to sell or otherwise dispose of the farm products used as collateral, provided that the secured party receives the proceeds from such sale or other disposition.

(2) Failure to pay the proceeds to the secured party within ten (10) days after the sale or other disposition of the collateral shall be prima facie evidence of a knowing failure to pay under this section.

(d) A violation of this section shall be a Class C felony ~~punishable~~

1 ~~by imprisonment for not less than four (4) years nor more than fifteen (15)~~
2 ~~years and by a fine not to exceed ten thousand dollars (\$10,000).~~

3 (e) The terms used in this section shall have the same meaning as used
4 in the Uniform Commercial Code, Acts 1961, No. 185, as amended, unless the
5 context requires otherwise.

6
7 SECTION 416. Arkansas Code § 5-38-311 is amended to read as follows:

8 5-38-311. Unlawful burning - Miscellaneous felonies.

9 (a) The following acts shall be Class C felonies ~~and shall be~~
10 ~~punishable by a fine of not less than one thousand dollars (\$1,000) nor more~~
11 ~~than ten thousand dollars (\$10,000) or less than one (1) year in the~~
12 ~~penitentiary nor more than ten (10) years, or both fine and imprisonment:~~

13 (1) Purposely ~~or willfully or maliciously~~ setting on fire the
14 lands of another;

15 (2) Starting a fire on one's own lands or lands which he or she
16 has leased or are under his or her control with the intent of letting it
17 escape to the lands of another; and

18 (3) The destruction or injuring of, or theft of, any telephone
19 lines, towers, buildings, tools, or equipment used in the detection,
20 reporting, or suppression of fires.

21 (b) No bond for costs shall be required in any courts of this state
22 for prosecution for violation of the provisions of this section.

23
24 SECTION 417. Arkansas Code § 5-51-202 is amended to read as follows:

25 5-51-202. Advocating assassination or overthrow of government.

26 (a) For the purposes of this section, the term "government in the
27 United States" means the government of the United States or the government of
28 this state.

29 (b) It shall be unlawful for any person:

30 (1) To knowingly ~~or willfully~~ advocate, abet, advise, or teach
31 the duty, necessity, desirability, or propriety of overthrowing or destroying
32 any government in the United States by force or violence or by the
33 assassination of any officer of any such government;

34 (2) With the intent to cause the overthrow or destruction of any
35 government in the United States, to print, publish, edit, issue, circulate,
36 sell, distribute, or publicly display any written or printed matter

1 advocating, advising, or teaching the duty, necessity, desirability, or
2 propriety of overthrowing or destroying any government in the United States
3 by force or violence;

4 (3)~~(A)~~ To organize or help to organize any society, group, or
5 assembly of persons who teach, advocate, or encourage the overthrow or
6 destruction of any government in the United States by force or violence; or

7 ~~(B)~~(4) To be or become a member of or affiliate with any such
8 society, group, or assembly of persons, knowing the purposes thereof.

9 (c)(1) Any person who violates any of the provisions of this section
10 shall be deemed guilty of a Class C felony and, ~~upon conviction, be fined not~~
11 ~~more than ten thousand dollars (\$10,000) or imprisoned for not more than ten~~
12 ~~(10) years, or both such fine and imprisonment.~~

13 (2) No person convicted of violating any of the provisions of
14 this section shall, during the five (5) years next following his or her
15 conviction, be eligible for employment by the State of Arkansas or by any
16 department or agency thereof.

17
18 SECTION 418. Arkansas Code § 6-13-701 is amended to read as follows:
19 6-13-701. Powers and duties. [Effective July 1, 2000.]

20 (a) The board of directors of any school district in Arkansas is
21 authorized to appoint a treasurer to handle the funds of the district.

22 (1) The treasurer shall be appointed at a regular meeting of the
23 board.

24 (2) An executed certificate of appointment shall be filed with
25 the county clerk, the county treasurer, and the Director of the Department of
26 Finance and Administration.

27 (b) School district treasurers shall execute a surety bond in such
28 amount as may be required by the Director of the Department of Finance and
29 Administration, who shall approve the bond. The premium on such bond shall be
30 paid out of the funds of the district.

31 (c) The duties of the school district treasurer shall be as follows:

32 (1) To receive and disburse funds of the school district.
33 Disbursements of such funds shall be made only upon warrants signed by the
34 president and secretary of the school district board of directors and
35 countersigned by the superintendent of schools of the district. As an
36 evidence of authority for disbursement of any funds, he or she shall have on

1 hand approved invoices and payrolls, such payrolls to be in conformance with
2 written contracts on file in his or her office;

3 (2) To keep a record of all financial transactions of the school
4 district on forms approved by the Department of Education and the Division of
5 Legislative Audit;

6 (3) To make a monthly statement to the school district board of
7 directors of the financial condition of the district;

8 (4) To submit an annual statement of the affairs of the district
9 to the school district board of directors in July of each year;

10 (5) To make such financial reports to the Department of
11 Education as are required by law;

12 (6) To not be interested directly or indirectly in any contract
13 authorized by the school district board of directors;

14 (7) To make his or her records available at all times for
15 inspection by any taxpayer of the district; and

16 (8) To perform all duties now imposed by law upon the treasurer
17 of a school district and to be subject to all regulations.

18 (d)(1) All local taxes of the district shall be remitted to the county
19 treasurer by the collector. The county treasurer shall remit the funds in a
20 timely manner to the school district treasurer in those districts maintaining
21 a school district treasurer.

22 (2) The district treasurer shall issue duplicate receipts for
23 all funds he or she receives. The original shall be transmitted to the party
24 making the remittance, and the duplicate shall be kept by the district
25 treasurer.

26 (e)(1) For the purposes of this section, "activity funds" means those
27 funds whose sources of revenues are from:

28 (A) The sale of tickets to athletic contests or other
29 school-sponsored activities;

30 (B) The sale of food, except that which is sold in the
31 lunchroom;

32 (C) The sale of soft drinks, school supplies, and books;
33 and

34 (D) Fees charged by clubs and organizations.

35 (2)(A) All school districts may maintain activity funds and
36 school service funds at the school.

1 (B) All activity funds and school food service funds shall
2 be maintained and accounted for in accordance with guidelines and procedures
3 established by the Department of Education.

4 (C) The superintendent of the school maintaining activity
5 funds and school food service funds shall be the official custodian of all
6 activity funds and school service funds and shall be responsible and
7 accountable for the funds.

8 (D) By resolution adopted by a majority vote of the local
9 school district board of directors, the superintendent may appoint another
10 school employee to be the cocustodian of any or all activity funds and school
11 food service funds.

12 (E) The cocustodian shall also be responsible and
13 accountable for activity funds and school food service funds maintained by
14 the cocustodian.

15 (f) The county treasurer shall receive as commission for handling the
16 funds of such districts only one-fourth of one percent (.25%) of all funds
17 passing through his or her hands on which county treasurers are authorized by
18 law to charge commissions.

19 (g) The records of the school district treasurers shall be audited by
20 the division annually in the same manner as now provided for the auditing of
21 county officials.

22 (h) The fraudulent use by the school district treasurer of any funds
23 of the school district or by any school board members shall constitute a
24 Class C felony. Upon conviction, such person shall be ~~fined~~ ordered to pay
25 in restitution an amount double the amount involved ~~and imprisoned in the~~
26 ~~penitentiary for a term of one (1) to five (5) years.~~

27
28 SECTION 419. Arkansas Code § 3-8-209 is amended to read as follows:

29 3-8-209. Sales, or furnishing place for sale, in dry territory
30 prohibited - Penalty.

31 (a) It shall be unlawful for any person, firm, or corporation to
32 manufacture, sell, barter, loan, or give away intoxicating liquor in any
33 county, township, municipality, ward, or precinct in which the manufacture or
34 sale of intoxicating liquor is or shall be prohibited under the provisions of
35 Initiated Act No. 1 of 1942, §§ 3-8-201 - 3-8-203 and 3-8-205 - 3-8-209.

36 (b) Any person who or officers of any firm or corporation which shall

1 manufacture, sell, barter, loan, or give away any intoxicating liquor in any
2 territory which has been made dry under the provisions of this subchapter
3 shall, upon first conviction, be ~~deemed~~ guilty of a ~~misdemeanor~~ violation and
4 shall be fined not less than one hundred dollars (\$100) nor more than one
5 thousand dollars (\$1,000). For a second conviction, he or she shall be
6 guilty of a violation and fined not less than two hundred dollars (\$200) nor
7 more than two thousand dollars (\$2,000); and for any subsequent conviction
8 shall be guilty of a Class D felony ~~and shall be sentenced to not less than~~
9 ~~one (1) year nor more than five (5) years in the Department of Corrections.~~
10 ~~If any person so convicted is punished by a fine only, if such fine is not~~
11 ~~paid immediately, he shall be confined in the Department of Corrections at~~
12 ~~hard labor until such fine and costs are paid at the rate of two dollars~~
13 ~~(\$2.00) per day.~~

14 (c) Any person who or officers of a firm or corporation which
15 knowingly furnishes or rents a house, room, wagon, vehicle, or any conveyance
16 or thing in which intoxicating liquor is manufactured or sold, bartered,
17 loaned, or given away in violation of prohibition secured under the
18 provisions of this subchapter is declared to be a particeps criminis and,
19 upon conviction, shall be subject to the same punishment as the principal.
20 The house, room, wagon, vehicle, conveyance, or other thing in which the
21 intoxicating liquor is manufactured or sold, bartered, loaned, or given away
22 shall be liable for all fines adjudged against either the principal or the
23 particeps criminis or both, as defined in this subsection.

24
25 SECTION 420. Arkansas Code § 3-8-312 is amended to read as follows:

26 3-8-312. Sale, barter, or possession for sale or barter in dry area -
27 Penalties.

28 (a) It shall be unlawful for any person, firm, or corporation to sell
29 or barter, or possess for purposes of sale or barter, any intoxicating liquor
30 or beverage in any county, township, municipality, ward, or precinct in which
31 the sale or barter of intoxicating liquor or beverage is or shall be
32 prohibited by law.

33 (b) Any person, or officers of any firm or corporation, who shall do
34 so shall upon first conviction be deemed guilty of a ~~misdemeanor~~ violation
35 and shall be fined not less than one hundred dollars (\$100) nor more than one
36 thousand dollars (\$1,000). The person or officers of a firm or corporation

1 for a second conviction shall be guilty of a violation and fined not less
2 than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000).
3 For any subsequent conviction, the person or officers of a firm or
4 corporation shall be deemed guilty of a Class D felony ~~and shall be sentenced~~
5 ~~to not less than one (1) year nor more than five (5) years in the Department~~
6 ~~of Corrections.~~

7 (c) The defendant shall be specifically charged with violating the
8 felony provision of this section.

9 (d) Bond forfeitures under this section or any statute or municipal
10 ordinance of this state prohibiting the unlawful sale or barter or possessing
11 for sale or barter of any intoxicating liquor or beverage shall be considered
12 as a conviction in determining whether or not the defendant is properly
13 charged with a second offense or a felony as set out herein.

14

15 SECTION 421. Arkansas Code § 4-59-301 is amended to read as follows:
16 4-59-301. Issuance of bill for goods not received.

17 Any officer, agent, or servant of a carrier who with intent to defraud
18 issues or aids in issuing a bill, knowing that all or any part of the goods
19 for which the bill is issued have not been received by the carrier or by an
20 agent of the carrier or by a connecting carrier, or are not under the
21 carrier's control at the time of issuing the bill, shall be guilty of a Class
22 D felony ~~crime and upon conviction shall be punished for each offense by~~
23 ~~imprisonment not exceeding five (5) years or by a fine not exceeding five~~
24 ~~thousand dollars (\$5,000), or by both.~~

25

26 SECTION 422. Arkansas Code § 5-39-211 is amended to read as follows:
27 5-39-211. Cemeteries - Mining and other unlawful entries.

28 (a) It shall be unlawful for any corporation, company, or individual
29 to:

30 (1) Mine, extract, or remove coal or any other mineral or
31 substance from under or beneath any cemetery, graveyard, or burying place in
32 this state;

33 (2) Make, place, or drive any slope, pit, or entry of any kind
34 into, under, through, or across any cemetery, graveyard, or other burying
35 place in this state.

36 (b) Any corporation, company, or individual violating the provisions

1 of this section shall be guilty of a Class D felony ~~and upon conviction shall~~
2 ~~be fined in any sum not less than one thousand dollars (\$1,000) nor more than~~
3 ~~five thousand dollars (\$5,000) and be imprisoned not less than one (1) year~~
4 ~~nor more than five (5) years.~~

5
6 SECTION 423. Arkansas Code § 5-51-203 is amended to read as follows:

7 5-51-203. Usurping office.

8 If any person shall exercise or attempt to exercise the duties of any
9 office created by the Constitution and laws of this state without first being
10 qualified in the manner prescribed by law for the discharge thereof, the
11 offender shall, upon conviction, be ~~punished by imprisonment in the~~
12 ~~penitentiary for a period not less than one (1) year nor more than five (5)~~
13 ~~years, in the discretion of the court~~ guilty of a Class D felony.

14
15 SECTION 424. Arkansas Code §§ 5-51-303 and 5-51-304 are amended to
16 read as follows:

17 5-51-303. Intentional injury to or interference with government
18 property.

19 Whoever shall knowingly and intentionally destroy or injure any article
20 or thing whatsoever belonging to the United States, the State of Arkansas, or
21 any county, city, or other subdivision of this state with intent to hinder or
22 interfere with the owners in the preparation for prosecution of war, or in
23 their use for defense purposes, shall be ~~punished by imprisonment of not more~~
24 ~~than three (3) years or by a fine of not more than one thousand dollars~~
25 ~~(\$1,000), or by both such fine and imprisonment, at the discretion of the~~
26 ~~court or jury trying the case~~ guilty of a Class D felony.

27
28 5-51-304. Intentionally defective workmanship.

29 Whoever shall knowingly and intentionally make or cause to be made any
30 defective article or thing to be used by the United States or the State of
31 Arkansas, or any subdivision of this state, with intent to injure or hinder
32 them or either of them in the preparation for war or prosecution thereof, or
33 in their use for defense purposes, shall be ~~deemed~~ guilty of a ~~criminal~~
34 ~~offense and punished by imprisonment of not more than three (3) years or by a~~
35 ~~fine of not more than one thousand dollars (\$1,000), or by both fine and~~
36 ~~imprisonment, in the discretion of the court or jury trying the case~~ Class D

1 felony.

2
3 SECTION 425. Arkansas Code § 5-53-133 is amended to read as follows:

4 5-53-133. Approaching jury commissioners to influence juror
5 selections.

6 (a)(1) After the circuit judges of any district in this state have
7 appointed jury commissioners to select grand and petit jurors to serve in the
8 circuit courts of this state, it shall be unlawful for any person to approach
9 any of the jury commissioners for the purpose of having any person placed
10 upon the grand or petit jury.

11 (2) Any person violating this subsection shall be guilty of a
12 Class D felony ~~and upon conviction shall be imprisoned in the Department of~~
13 ~~Correction not less than two (2) years nor more than five (5) years.~~

14 (b) If any state, county, city, or township official shall approach
15 any jury commissioner for the purpose of having any person placed upon the
16 grand or petit jury, he or she shall be guilty of a Class D felony ~~and shall~~
17 ~~be imprisoned in the Department of Correction not less than two (2) years nor~~
18 ~~more than five (5) years pursuant to subsection (a) of this section, and~~
19 ~~shall be suspended from office permanently by the circuit judge.~~

20 (c) If any licensed attorney shall approach any commissioner for the
21 purpose of having any person placed upon the grand or petit jury, he or she
22 shall be guilty of a Class D felony ~~and imprisoned in the Department of~~
23 ~~Correction not less than two (2) years nor more than five (5) years pursuant~~
24 ~~to subsection (a) of this section, and the Supreme Court shall revoke his~~
25 ~~license to practice law.~~

26 (d) It shall be the duty of the circuit judges to instruct jury
27 commissioners in regard to the provisions of this section.

28
29 SECTION 426. Arkansas Code § 5-55-201 is amended to read as follows:

30 5-55-201. Traffic in illegal food coupons or vouchers.

31 (a) Any individual, partnership, corporation, or other legal entity
32 which shall issue food coupons in a manner not authorized by federal law and
33 regulations or state law and regulations or which shall use, transfer,
34 acquire, possess, or present any such coupons for payment not authorized by
35 federal and state law or federal and state regulations shall be guilty of a
36 Class D felony ~~and shall, upon conviction, be fined not more than ten~~

1 ~~thousand dollars (\$10,000) or imprisoned for not more than five (5) years, or~~
2 ~~both, or, if such coupons are of a value of less than one hundred dollars~~
3 ~~(\$100), shall be guilty of a Class A misdemeanor and shall, upon conviction~~
4 ~~thereof, be fined not more than one thousand dollars (\$1,000) or imprisoned~~
5 ~~for not more than one (1) year, or both.~~

6 (b) Any individual, partnership, corporation, or other legal entity
7 which shall issue vouchers used in the federal Special Supplemental Food
8 Program for Women, Infants and Children in a manner not authorized by federal
9 law and regulations or state law and regulations or which shall use,
10 transfer, acquire, possess, or present any such vouchers for payment not
11 authorized by federal and state law or federal and state regulations shall be
12 guilty of a Class A misdemeanor ~~and shall, upon conviction thereof, be fined~~
13 ~~not more than one thousand dollars (\$1,000) or imprisoned for not more than~~
14 ~~one (1) year, or both.~~

15 (c) As used in this chapter, the term "food coupon" means any printed
16 material, magnetically encoded instrument, or other device or process issued
17 by the Department of Human Services, or its successors, the purpose of which
18 is to permit the purchase of food as provided for by the Federal Food Stamp
19 Act, 7 U.S.C. § 2011 et seq., or regulations promulgated pursuant thereto.

20
21 SECTION 427. Arkansas Code § 5-55-203 is amended to read as follows:

22 5-55-203. Illegal presentation of food coupons or vouchers for
23 payment.

24 (a) Whoever presents, or causes to be presented, coupons for payment
25 or redemption of the value of one hundred dollars (\$100) or more, knowing the
26 same to have been received, transferred, or used in any manner in violation
27 of the provisions of the federal Food Stamp Law or the federal or state
28 regulations issued pursuant to the Food Stamp Law, shall be guilty of a Class
29 D felony ~~and shall, upon conviction, be fined not more than ten thousand~~
30 ~~dollars (\$10,000) or imprisoned for not more than five (5) years, or both,~~
31 or, if such coupons are of a value of less than one hundred dollars (\$100),
32 shall be guilty of a Class A misdemeanor ~~and shall, upon conviction, be fined~~
33 ~~not more than one thousand dollars (\$1,000) or imprisoned for not more than~~
34 ~~one (1) year, or both.~~

35 (b) Whoever presents, or causes to be presented, vouchers for payment
36 or redemption of the value of one hundred dollars (\$100) or more, knowing the

1 same to have been received, transferred, or used in any manner in violation
2 of the provisions of the federal Special Supplemental Food Program for Women,
3 Infants and Children authorized by the Child Nutrition Act of 1966, as
4 amended, or the federal or state regulations issued pursuant to the Child
5 Nutrition Act of 1966 shall be guilty of a Class A misdemeanor ~~and shall,~~
6 ~~upon conviction, be fined not more than one thousand dollars (\$1,000) or~~
7 ~~imprisoned for not more than one (1) year, or both.~~

8
9 SECTION 428. Arkansas Code § 5-61-102 is amended to read as follows:

10 5-61-102. Unlawful abortion.

11 (a) It shall be unlawful for anyone to administer or prescribe any
12 medicine or drugs to any woman with child, with the intent to produce an
13 abortion or premature delivery of any fetus before or after the period of
14 quickening or to produce or attempt to produce such abortion by any other
15 means.

16 (b) Any person offending against the provisions of this section shall
17 ~~be fined in any sum not to exceed one thousand dollars (\$1,000) and~~
18 ~~imprisoned in the penitentiary not less than one (1) nor more than five (5)~~
19 ~~years~~ guilty of a Class D felony.

20 (c) Nothing in this section shall be construed to allow the charging
21 or conviction of a woman with any criminal offense in the death of her own
22 unborn child in utero.

23
24 SECTION 429. Arkansas Code § 5-68-203 is amended to read as follows:

25 5-68-203. Obscene films.

26 (a) It shall be unlawful for any person knowingly to exhibit, sell,
27 offer to sell, give away, circulate, produce, distribute, attempt to
28 distribute, or have in his or her possession any obscene film.

29 (b) As used in this section:

30 (1) "Person" means any individual, partnership, firm,
31 association, club, corporation, or other legal entity;

32 (2) "Obscene" means that to the average person, applying
33 contemporary community standards, the dominant theme of the material taken as
34 a whole appeals to prurient interest;

35 (3) "Film" means motion picture film, still picture film,
36 slides, and movie film of any type.

1 (c) Any person who knowingly exhibits, sells, offers to sell, gives
2 away, circulates, produces, distributes, or attempts to distribute any
3 obscene film shall be guilty of a Class D felony ~~and upon conviction shall be~~
4 ~~fined not more than two thousand dollars (\$2,000) or be imprisoned for a~~
5 ~~period not less than one (1) year nor more than five (5) years, or be both so~~
6 ~~fined and imprisoned.~~ Any person who shall have in his or her possession
7 obscene film shall be guilty of a Class A misdemeanor ~~and upon conviction~~
8 ~~shall be fined not more than one thousand dollars (\$1,000) or be imprisoned~~
9 ~~in the county jail for a period not to exceed one (1) year, or both.~~

10
11 SECTION 430. Arkansas Code § 5-68-405 is amended to read as follows:
12 5-68-405. Possession, sale, or distribution.

13 (a) Every person who, with knowledge of its contents, sends or causes
14 to be sent, or brings or causes to be brought, into this state for sale or
15 commercial distribution, or in this state prepares, publishes, sells,
16 exhibits, or commercially distributes, or gives away or offers to give away
17 or has in his or her possession with intent to sell or commercially
18 distribute or to exhibit or to give away, any obscene printed or written
19 matter or material, other than mailable matter, or any mailable matter known
20 by such person to have been judicially found to be obscene under this
21 subchapter, or who knowingly informs another of when, where, how, or from
22 whom or by what means any of these things can be purchased or obtained, shall
23 be guilty of a Class D felony ~~and upon conviction shall be fined not more~~
24 ~~than two thousand dollars (\$2,000) or be imprisoned for a period not less~~
25 ~~than one (1) year nor more than five (5) years, or be both so fined and~~
26 ~~imprisoned.~~

27 (b) Every person who, with knowledge of its contents, has in his or
28 her possession any obscene printed or written matter or materials, other than
29 mailable matter, or any mailable matter known by that person to have been
30 judicially found to be obscene under this subchapter, shall be guilty of a
31 Class A misdemeanor ~~and upon conviction shall be fined not more than one~~
32 ~~thousand dollars (\$1,000) or be imprisoned in the county jail for a period~~
33 ~~not to exceed one (1) year, or both.~~

34
35 SECTION 431. Arkansas Code § 5-72-109 is amended to read as follows:
36 5-72-109. Injuring levees.

1 (a) Should any person cut, break, or in any wise damage any public
2 levee constructed, or which shall be constructed, by authority of this state,
3 or paid for, or which shall be paid for, out of any funds of this state, or
4 out of the funds of any county or public corporation, in whole or in part,
5 that person ~~he so offending~~ shall be ~~deemed~~ guilty of a Class D felony.

6 (b) Any person who shall enter upon the premises of another and shall
7 willfully and maliciously cut down, break, or destroy any levee erected or
8 constructed to prevent the overflow of lands, or any embankment necessary to
9 support such levee, with intent to destroy or injure the same, shall be
10 deemed guilty of a felony. However, nothing in this section shall be
11 construed to protect any levee or embankment obstructing or damming a running
12 stream or natural outlet for the water so as to injure other persons, unless
13 the same has been condemned to public use in the manner provided by the
14 Constitution and laws of the state.

15 ~~(c) Whenever any person shall be convicted of a felony in any case~~
16 ~~which shall occur or arise under the provisions of this section, he shall be~~
17 ~~punished by imprisonment at hard labor in the penitentiary of this state for~~
18 ~~a period not less than one (1) nor more than five (5) years.~~

19
20 SECTION 432. Arkansas Code § 16-93-302 is amended to read as follows:

21 16-93-302. Penalties.

22 (a)(1) No person may avail himself or herself of the provisions of §§
23 16-93-301 - 16-93-303 on more than one (1) occasion.

24 (2) Any person seeking to avail himself or herself of the
25 benefits of §§ 16-93-301 - 16-93-303 who shall falsely testify, swear, or
26 affirm to the court that he or she has not previously availed himself or
27 herself of the benefits of §§ 16-93-301 - 16-93-303 shall be ~~deemed~~ guilty of
28 a Class D felony ~~and shall, upon conviction, be punished by a fine of not~~
29 ~~less than five hundred dollars (\$500) nor more than two thousand five hundred~~
30 ~~dollars (\$2,500), or by imprisonment in the state penitentiary for not less~~
31 ~~than one (1) year nor more than five (5) years, or by both the fine and~~
32 ~~imprisonment.~~

33 (b)(1) Any person charged under the provisions of §§ 16-93-301 - 16-
34 93-303 with keeping the confidential records of first offenders, as provided
35 in § 16-93-301, who shall divulge any information contained in the records to
36 any person or agency other than a law enforcement officer or judicial officer

1 shall be guilty of a ~~misdemeanor~~ violation and shall, upon conviction, be
2 subject to a fine of not more than five hundred dollars (\$500).

3 (2) Each violation shall be considered a separate offense.
4

5 SECTION 433. Arkansas Code § 23-35-801 is amended to read as follows:

6 23-35-801. Misleading conduct or use of words "credit union".

7 (a) It is unlawful for any person, corporation, copartnership, or
8 association except a credit union subject to the provisions of this chapter
9 or the Federal Credit Union Act to:

10 (1) Use a name or title containing the words "credit union" or
11 any derivation thereof;

12 (2) Represent themselves in their advertising as a credit union;
13 or

14 (3) Otherwise conduct business as a credit union.

15 (b) Any person who willfully violates this section shall be guilty of
16 a Class D felony ~~and upon conviction shall be fined not more than five~~
17 ~~hundred dollars (\$ 500) or imprisoned in the state penitentiary for not more~~
18 ~~than five (5) years, or both,~~ and may be permanently enjoined from such
19 conduct.

20 (c) The State Credit Union Supervisor may institute and prosecute
21 actions in his or her own name in the circuit court of any county having
22 jurisdiction, to seek any judicial remedy necessary to enforce the provisions
23 of this section.
24

25 SECTION 434. Arkansas Code § 23-38-403 is amended to read as follows:

26 23-38-403. Suppressing evidence.

27 Every officer, director, employee, or agent of any building and loan
28 association who, for the purpose of concealing any fact or suppressing any
29 evidence against himself or against any other person, abstracts, removes,
30 mutilates, destroys, or secretes any paper, book, or record of any building
31 and loan association or of the Securities Commissioner shall be ~~deemed~~ guilty
32 of a Class D felony ~~and upon conviction shall be punished by confinement in~~
33 ~~the state penitentiary for a period of not less than one (1) year nor more~~
34 ~~than five (5) years.~~
35

36 SECTION 435. Arkansas Code § 23-60-109 is amended to read as follows:

1 23-60-109. Penalty for false or misleading statements.

2 Any person who files any statement, application, form, or other
3 document required to be filed by the Arkansas Insurance Code, knowing the
4 statement or information contained in the document to be false or misleading
5 in any material respect, shall be guilty of a Class D felony ~~and upon~~
6 ~~conviction shall be punished by a fine of not more than five thousand dollars~~
7 ~~(\$ 5,000) or by imprisonment in the Department of Correction for not more~~
8 ~~than three (3) years, or by both fine and imprisonment.~~

9
10 SECTION 436. Arkansas Code § 3-3-205 is amended to read as follows:

11 3-3-205. Sale or possession without license.

12 (a)(1) Any person who shall sell, barter, exchange, or give any
13 intoxicating alcoholic liquor without having a valid license as provided by
14 this act shall, in addition to losing his or her license, be deemed guilty of
15 a Class A misdemeanor ~~misdemeanor, and upon conviction shall be fined not~~
16 ~~less than five hundred dollars (\$500) nor more than one thousand dollars~~
17 ~~(\$1000), or imprisoned for not exceeding one (1) year, or both so fined and~~
18 ~~imprisoned in the discretion of the court or jury.~~

19 (2) Any person found guilty of a third or subsequent violation
20 of this subsection within a period of three (3) years shall be deemed guilty
21 of a Class D felony.

22 (b) Any person who has in his or her possession intoxicating alcoholic
23 liquor not obtained under, and in conformity with, the provisions of this act
24 shall be deemed guilty of a Class A misdemeanor ~~and shall, upon conviction,~~
25 ~~be fined not less than five hundred dollars (\$500) nor more than one thousand~~
26 ~~dollars (\$1000) or imprisoned for not exceeding one (1) year, or both so~~
27 ~~fined and imprisoned in the discretion of the court or jury.~~

28 (c) This penalty shall apply whether the intoxicating liquor is for
29 the use of the person illegally possessing it or for the use and benefit of
30 another.

31 (d) Each act in violation of this section shall constitute a separate
32 misdemeanor.

33 (e) Nothing herein contained shall relieve any licensee from
34 forfeiture of his or her license.

35 ~~(f) [As amended by Acts 1991, No. 498, § 1.]~~

36 ~~(1) Any person found guilty a second time of subsection (b) of~~

1 ~~this section shall be fined not less than fifty dollars (\$50.00) nor more~~
2 ~~than five hundred dollars (\$500), or confined in the county jail not less~~
3 ~~than one (1) month nor more than six (6) months, or both so fined and~~
4 ~~imprisoned within the discretion of the court or jury.~~

5 ~~(2) Any person found guilty of a second violation of subsection~~
6 ~~(a) within a period of three (3) years shall be deemed guilty of a Class A~~
7 ~~misdemeanor. Any person found guilty of a third or subsequent violation of~~
8 ~~subsection (a) of this section within a period of three (3) years shall be~~
9 ~~deemed guilty of a Class D felony.~~

10 ~~(f) [As amended by Acts 1991, No. 577, § 1.] Any person found guilty a~~
11 ~~second time within a three year period shall be fined not less than one~~
12 ~~thousand dollars (\$1000), or confined in the county jail not less than one~~
13 ~~(1) month, or both so fined and imprisoned within the discretion of the court~~
14 ~~or jury.~~

15
16 SECTION. 437. Arkansas Code § 5-39-304 is amended to read as follows:

17 5-39-304. Notice to cease entering - Further entrance.

18 (a) The owner, agent, lessee, or ~~assign~~ assignee of any lands
19 including farm, timber, or otherwise may notify any person by certified mail,
20 deliver to addressee only, by notice served by any official authorized to
21 serve process, ~~or by personal oral notification~~ to cease any trespass or to
22 stay off the premises of any property belonging to the owner, his or her
23 agent, or ~~assigns~~ assignee.

24 (b) Notice shall specify the lands by description containing section,
25 township, and range.

26 (c) Any person receiving notice shall immediately cease any trespass
27 or entrance upon the described lands of the owner.

28 (d) Any further entrance or trespass by the person receiving the
29 notice shall be considered a criminal trespass, and the person shall be
30 ~~deemed guilty of a Class C misdemeanor and upon conviction shall be fined in~~
31 ~~any sum not less than two hundred fifty dollars (\$250) nor more than five~~
32 ~~hundred dollars (\$500).~~

33
34 SECTION 438. Arkansas Code § 5-73-104 is amended to read as follows:

35 5-73-104. Criminal use of prohibited weapons.

36 (a) A person commits the offense of criminal use of prohibited weapons

1 if, except as authorized by law, he or she uses, possesses, makes, repairs,
 2 sells, or otherwise deals in any bomb, machine gun, sawed-off shotgun or
 3 rifle, firearm specially made or specially adapted for silent discharge,
 4 metal knuckles, or other implement for the infliction of serious physical
 5 injury or death ~~which serves no common lawful purpose.~~

6 (b) It is a defense to prosecution under this section that:

7 (1) The person was a law enforcement officer, prison guard, or
 8 member of the armed forces acting in the course and scope of his or her duty
 9 at the time he or she used or possessed the prohibited weapon; or

10 (2) The defendant used, possessed, made, repaired, sold, or
 11 otherwise dealt in any of the above enumerated articles under circumstances
 12 negating any likelihood that the weapon could be used ~~unlawfully~~ as a weapon.

13 (c) Criminal use of prohibited weapons is a Class B felony if the
 14 weapon is a bomb, machine gun, or firearm specially made or specially adapted
 15 for silent discharge. Otherwise, it is a Class D felony.

16
 17 SECTION 439. Arkansas Code § 16-82-201 is amended to read as follows:

18 16-82-201. ~~Authority and grounds to issue~~ Issuance of search warrants
 19 upon oral testimony.

20 ~~(a) A search warrant may be issued by any judicial officer of this~~
 21 ~~state only upon affidavit sworn to before a judicial officer which~~
 22 ~~establishes the grounds for its issuance.~~

23 ~~(b) A warrant may be issued to search for and to seize any property:~~

24 ~~(1) Stolen or embezzled in violation of the laws of this state;~~
 25 ~~or~~

26 ~~(2) Designed or intended for use or which has been used as a~~
 27 ~~means of committing a criminal offense; or~~

28 ~~(3) Which is held or possessed by any person in violation of the~~
 29 ~~laws of this state; or~~

30 ~~(4) That constitutes evidence of a criminal offense or is of~~
 31 ~~evidentiary value in any criminal prosecution.~~

32 ~~(c) Upon complaint being made on oath before any officer authorized to~~
 33 ~~issue process for the apprehension of offenders that any personal property~~
 34 ~~has been stolen or embezzled and that the complainant suspects that the~~
 35 ~~property is concealed in any particular house or place, if the officer shall~~
 36 ~~be satisfied that there is reasonable ground for the suspicion, he shall~~

1 ~~issue a warrant to search for the property.~~

2 ~~(d) Subsections (a) and (b) of this section shall be supplementary to~~
3 ~~existing statutory and common law authority for the issuance of search~~
4 ~~warrants and shall repeal only those in irreconcilable conflict herewith.~~

5 ~~(e) Warrant upon Oral Testimony.~~

6 ~~(1)(a)~~ General Rule. If the circumstances make it reasonable to
7 dispense with a written affidavit, any judicial officer of this state may
8 issue a warrant based upon sworn oral testimony communicated by telephone or
9 other appropriate means.

10 ~~(2)(b)~~ Application.

11 ~~(A)(1)~~ The person who is requesting the warrant shall prepare a
12 document, in a form approved by the Arkansas Judicial Council, to be known as
13 a "duplicate original warrant" and shall read such duplicate original warrant
14 verbatim to the judicial officer.

15 ~~(B)(2)~~ The judicial officer shall enter verbatim what is so read
16 to such magistrate on a document to be known as an "original warrant".

17 ~~(C)(3)~~ The judicial officer may direct that the warrant be
18 modified.

19 ~~(3)(c)~~ Issuance.

20 ~~(A)(1)~~ If the judicial officer is satisfied that the
21 circumstances are such as to make it reasonable to dispense with a written
22 affidavit and that grounds for the application exist or that there is
23 probable cause to believe that they exist, the judicial officer shall order
24 the issuance of a warrant by directing the person requesting the warrant to
25 sign the judicial officer's name on the duplicate original warrant.

26 ~~(B)(2)~~ The judicial officer shall immediately sign the original
27 warrant and enter on the face of the original warrant the exact time when the
28 warrant was ordered to be issued.

29 ~~(C)(3)~~ The finding of probable cause for a warrant upon oral
30 testimony may be based on the same kind of evidence as is sufficient for a
31 warrant upon affidavit.

32 ~~(4)(d)~~ Recording and Certification of Testimony.

33 ~~(A)(1)~~ When a caller informs the judicial officer that the
34 purpose of the call is to request a warrant, the judicial officer shall
35 immediately place under oath each person whose testimony forms a basis for
36 the application and each person applying for that warrant.

1 ~~(B)(i)(2)(A)~~ If a voice recording device is available, the
2 judicial officer shall record by means of such device all of the call after
3 the caller informs the judicial officer that the purpose of the call is to
4 request a warrant.

5 ~~(ii)(B)~~ Otherwise, a stenographic or longhand verbatim
6 record shall be made immediately.

7 ~~(iii)(C)~~ If a voice recording device is used or a
8 stenographic record made, the judicial officer shall have the record
9 transcribed, shall certify the accuracy of the transcription, and shall file
10 a copy of the original record and the transcription with the court.

11 ~~(iv)(D)~~ If a longhand verbatim record is made, the
12 judicial officer shall file a signed copy with the court.

13 ~~(5)(e)~~ Contents. The contents of a warrant upon oral testimony shall
14 be the same as the contents of a warrant upon affidavit.

15 ~~(6)(f)~~ Additional Rule of Execution. The person who executes the
16 warrant shall enter the exact time of execution on the face of the duplicate
17 original warrant.

18 ~~(7)(g)~~ Motion to Suppress Precluded. Absent a finding of bad faith,
19 evidence obtained pursuant to a warrant issued under this subsection is not
20 subject to a motion to suppress on the ground that the circumstances were not
21 such as to make it reasonable to dispense with a written affidavit.

22
23 SECTION 440. Arkansas Code § 16-93-610 is amended to read as follows:
24 16-93-610. Computation of sentence.

25 (a) Time served shall be deemed to begin on the day sentence is
26 imposed, not on the day a prisoner is received by the Department of
27 Correction. It shall continue only during the time in which a prisoner is
28 actually confined in a county jail or other local place of lawful confinement
29 or while under the custody and supervision of the Department of Correction.

30 (b) The sentencing ~~judge, in his discretion, may~~ judge shall direct,
31 when he or she imposes sentence, that time already served by the defendant in
32 jail or other place of detention shall be credited against the ~~sentence~~
33 defendant.

34
35 SECTION 441. Arkansas Code § 23-79-136 is amended to read as follows:
36 23-79-136. Agreement for insurer to invest premium prohibited.

1 (a) It is unlawful for any insurance company authorized to do business
2 in this state to issue or offer for sale or issue in this state any policy of
3 insurance under which the insurer agrees to invest a portion of the policy
4 premium, whether for one (1) or more years, and hold a portion of the policy
5 premium for investment in its own name either directly or indirectly, or as
6 trustee for the benefit of the insured or for the benefit of a certain class
7 of policyholders.

8 (b) Any insurance company issuing or offering to issue any policy in
9 violation of the provisions of subsection (a) of this section shall upon
10 conviction be fined in any sum not less than five hundred dollars (\$500) nor
11 more than five thousand dollars (\$5,000), and in addition, the authority of
12 the insurance company to do business in this state may be revoked.

13 (c) (1) This section shall not be construed to prohibit the offer or
14 sale of a variable annuity contract issued, or variable benefit payable, in
15 compliance with the applicable requirements of the Arkansas Insurance Code,
16 the Securities Act of 1933, the Investment Company Act of 1940, and the
17 Arkansas Securities Act, § 23-42-101 et seq.

18 (2) This section shall not apply to contracts with respect to
19 amounts maintained by insurers in such group pension, profit-sharing, and
20 annuity separate accounts as may be authorized by law.

21 (3) This section shall not apply to policy provisions permitting
22 benefits to be left on deposit with the insurer at a specified rate of
23 interest.

24
25 SECTION 442. Arkansas Code § 5-1-102 is amended to read as follows:

26 5-1-102. Definitions.

27 As used in this code, unless the context otherwise requires:

28 (1) "Act" or "action" has the meaning specified in § 5-2-201(1);

29 (2) "Actor" includes, where appropriate, a person who possesses
30 something or who omits to act;

31 (3) "Conduct" has the meaning specified in § 5-2-201(3);

32 (4) "Deadly weapon" means:

33 (A) A firearm or anything manifestly designed, made, or
34 adapted for the purpose of inflicting death or serious physical injury; or

35 (B) Anything that in the manner of its use or intended use
36 is capable of causing death or serious physical injury;

1 (5) "Element of the offense" means the conduct, the attendant
2 circumstances, and the result of conduct that:

3 (A) Is specified in the definition of the offense; or

4 (B) Establishes the kind of culpable mental state required
5 for commission of the offense; or

6 (C) Negates an excuse or justification for the conduct;

7 (6) "Firearm" means any device designed, made, or adapted to
8 expel a projectile by the action of an explosive or any device readily
9 convertible to that use, including such a device that is not loaded or lacks
10 a clip or other component to render it immediately operable, and components
11 that can readily be assembled into such a device;

12 (7) "Included offense" has the meaning specified in § 5-1-
13 110(b);

14 (8) "Knowingly" and equivalent terms such as ~~"knowing" or "with~~
15 ~~knowledge"~~ "knowing", "with knowledge", "willful", or "willfully", have the
16 meaning specified in ~~§ 5-2-202(2);~~ § 5-2-202(2), unless the statute clearly
17 indicates a legislative intent to require a culpable mental state of
18 "purposely", in which case "willful" or "willfully" shall have the same
19 meaning as "purposely" specified in § 5-2-202(1);

20 (9) "Law" includes statutes and court decisions;

21 (10) "Negligently" and equivalent terms such as "negligence" or
22 "with negligence" have the meaning specified in § 5-2-202(4);

23 (11) "Omission" or "omit to act" has the meaning specified in §
24 5-2-201(2);

25 (12) "Law enforcement officer" means any public servant vested
26 by law with a duty to maintain public order or to make arrests for offenses;

27 (13)(A) "Person", "actor", "defendant", "he", "she", "her", or
28 "him" includes any natural person and, where appropriate, an organization as
29 that term is defined in § 5-2-501(1).

30 (B)(i)(a) For the purposes of §§ 5-10-101 - 5-10-105,
31 "person" also includes an unborn child in utero at any stage of development;

32 (b) "Unborn child" means a living fetus of twelve (12) weeks or
33 greater gestation.

34 (ii) Subdivision (13)(B) of this section does not
35 apply to:

36 (a) Acts which cause the death of an unborn

1 child in utero if those acts were committed during a legal abortion to which
2 the woman consented;

3 (b) Acts which are committed pursuant to usual
4 and customary standards of medical practice during diagnostic testing or
5 therapeutic treatment; and

6 (c) Acts which are committed in the course of
7 medical research, experimental medicine, or acts deemed necessary to save the
8 life or preserve the health of the mother.

9 (iii) Nothing in subdivision (13)(B) of this section
10 shall be construed to allow the charging or conviction of a woman with any
11 criminal offense in the death of her own unborn child in utero;

12 (14) "Physical injury" means the:

13 (A) Impairment of physical condition;

14 (B) Infliction of substantial pain; or

15 (C) Infliction of bruising, swelling, or visible marks
16 associated with physical trauma;

17 (15) "Possess" means to exercise actual dominion, control, or
18 management over a tangible object;

19 (16) "Public servant" means:

20 (A) Any officer or employee of this state or of any
21 political subdivision thereof; or

22 (B) Any person exercising the functions of any such
23 officer or employee; or

24 (C) Any person acting as an adviser, consultant, or
25 otherwise in performing any governmental function but not including
26 witnesses; or

27 (D) Any person elected, appointed, or otherwise designated
28 to become a public servant although not yet occupying that position;

29 (17) "Purposely" and equivalent terms such as ~~"purpose" or "with~~
30 ~~purpose"~~ "purpose", "with purpose", "intentional", "intentionally",
31 "intended", or "with intent to" have the meaning specified in § 5-2-202(1);

32 (18) "Reasonably believes" or "reasonable belief" means the
33 belief that an ordinary, prudent person would form under the circumstances in
34 question and one not recklessly or negligently formed;

35 ~~(21)~~(19) "Sawed-off or short-barrelled shotgun" means a shotgun
36 having one (1) or more barrels less than eighteen inches (18") in length and

1 any weapon made from a shotgun, whether by alteration, modification, or
2 otherwise, if such weapon, as modified, has an overall length of less than
3 twenty-six inches (26"); and

4 ~~(22)~~(20) "Sawed-off or short-barrelled rifle" means a rifle
5 having one (1) or more barrels less than sixteen inches (16") in length and
6 any weapon made from a rifle, whether by alteration, modification, or
7 otherwise, if such weapon, as modified, has an overall length of less than
8 twenty-six inches (26").

9 ~~(19)~~(21) "Serious physical injury" means physical injury that
10 creates a substantial risk of death or that causes protracted disfigurement,
11 protracted impairment of health, or loss or protracted impairment of the
12 function of any bodily member or organ;

13 ~~(20)~~(22) "Statute" includes the Constitution and any statute of
14 this state, any ordinance of a political subdivision of this state, and any
15 rule or regulation lawfully adopted by an agency of this state;

16
17 SECTION 443. Arkansas Code § 5-38-203 is amended to read as follows:

18 5-38-203. Criminal mischief in the first degree.

19 (a) A person commits the offense of criminal mischief in the first
20 degree if he or she purposely and without legal justification destroys or
21 causes damage to:

22 (1) Any property of another; or

23 (2) Any property, whether his own or that of another, for the
24 purpose of collecting any insurance therefor.

25 (b) In actions under this section involving cutting and removing
26 timber from the property of another, the failure to obtain the survey as
27 required by § 15-32-101 or the purposeful misrepresentation of the ownership
28 or origin of the timber shall create a presumption of ~~willful intent~~ purpose
29 to commit the offense of criminal mischief in the first degree.

30 (c) Criminal mischief in the first degree is a Class C felony if the
31 amount of actual damage is five hundred dollars (\$500) or more. Otherwise, it
32 is a Class A misdemeanor.

33 (d) In actions under this section involving cutting and removing
34 timber from the property of another, there shall be imposed in addition to
35 the penalty in subsection (c) of this section, a fine of not more than two
36 (2) times the value of the timber destroyed or damaged; provided, however,

1 that in addition to the above, the court can require the defendant to make
2 restitution to the owner of the timber.

3
4 SECTION 444. Arkansas Code § 23-35-803 is amended to read as follows:

5 23-35-803. Prohibited actions by officers, directors, agents, etc.

6 (a)(1) It is unlawful for any officer, director, committee member,
7 agent, employee, or loan officer of a credit union to permit a loan to be
8 made to a nonmember or to participate in a loan to a nonmember.

9 (2) It is unlawful for any corporation, officer, director,
10 member, committee member, agent, employee, or loan officer of a credit union
11 to receive, either directly or indirectly, the proceeds of a credit union
12 loan made in the name of another person, corporation, or credit union with
13 the ~~intent~~ purpose to avoid compliance with this chapter.

14 (3) Any person who willfully violates this subsection shall be
15 guilty of a Class A misdemeanor and shall be primarily liable to the credit
16 union for the amount thus illegally loaned.

17 (4) The illegality of such a loan shall be no defense in any
18 action of the credit union to recover on the loan.

19 (b) It is unlawful for any officer, director, committee member, agent,
20 or employee of a credit union to make or subscribe to false entries or
21 exhibit a false or fictitious paper, instrument, or security to a person
22 authorized to examine the credit union books and records. Any person who
23 willfully violates this subsection shall be guilty of a Class D felony ~~and~~
24 ~~upon conviction shall be fined not more than five hundred dollars (\$ 500) or~~
25 ~~imprisoned in the state penitentiary for not more than two (2) years, or~~
26 ~~both.~~

27 (c) It is unlawful for any officer, director, committee member, agent,
28 or employee of a credit union to receive payments on shares knowing the
29 credit union is insolvent. Any person who willfully violates this subsection
30 shall be guilty of a Class C felony ~~and upon conviction shall be fined not~~
31 ~~more than five thousand dollars (\$ 5,000) or imprisoned in the state~~
32 ~~penitentiary for not more than ten (10) years, or both.~~

33
34 SECTION 445. Arkansas Code § 23-38-404 is amended to read as follows:

35 23-38-404. Circulation of false statements injurious to association.

36 Any person who shall knowingly make, utter, or circulate any statement

1 untrue in fact and derogatory to the financial condition of any building and
2 loan association in this state, with ~~intent~~ the purpose to injure the
3 association, shall be deemed guilty of a ~~misdemeanor~~ violation and upon
4 conviction shall be punished by a fine of not more than five hundred dollars
5 (\$500).

6
7 SECTION 446. Arkansas Code § 23-50-105 is amended to read as follows:
8 23-50-105. Embezzlement, misuse of funds, etc., by officer, director,
9 etc.

10 (a) The following persons shall be guilty of a felony:

11 (1) Any officer, director, agent, or employee of any bank or
12 subsidiary trust company who:

13 (A) Embezzles or willfully misapplies any of the moneys,
14 funds, or credits of the bank or subsidiary trust company; or

15 (B) Without authority from the directors of the bank or
16 subsidiary trust company issues or puts forth any certificate of deposit,
17 draws any order or bill of exchange, makes any acceptance, or assigns any
18 note, bond, draft, bill of exchange, mortgage, judgment, or decree; or

19 (C) Makes any false entry in any book, report, or
20 statement of the bank or trust company with the ~~intent~~ purpose in any case to
21 injure or defraud the bank or subsidiary trust company, or the Bank
22 Commissioner, or any agent or examiner appointed to examine the affairs of
23 the bank or subsidiary trust company, or the State Banking Board;

24 (2) Every receiver or liquidating agent of a bank or subsidiary
25 trust company who, with like ~~intent~~ purpose to defraud or injure, shall
26 embezzle or willfully misapply any of the moneys, funds, or assets of his or
27 her trust; and

28 (3) Every agent, attorney, employee, or assistant of any
29 receiver or liquidating agent of any bank or subsidiary trust company who,
30 with like ~~intent~~ purpose to defraud or injure, shall embezzle or willfully
31 misapply any of the moneys, funds, or assets of the trust of the receiver or
32 liquidating agent; ~~and~~

33 ~~(4) Every person who, with like intent, shall aid or abet any~~
34 ~~officer, director, receiver, liquidating agent, employee, agent, attorney, or~~
35 ~~receiver in any violation of this section.~~

36 (b) Upon conviction, the person shall be fined in any sum not more

1 than one million dollars (\$1,000,000) or shall be imprisoned in the Arkansas
2 penitentiary for not more than thirty (30) years, or both.

3
4 SECTION 447. Arkansas Code § 23-50-106 is amended to read as follows:

5 23-50-106. False statements or records -- Bribery of commissioner,
6 examiner, or department employee.

7 The following persons shall be guilty of a Class D felony:

8 (1) Any person or persons who shall knowingly ~~and willfully~~
9 subscribe to or make or cause to be made any false statement or false entry
10 in the books of any financial institution with the ~~intent~~ purpose to deceive
11 the Bank Commissioner or examiner; ~~or~~

12 (2) Any person or persons who shall knowingly subscribe to or
13 exhibit false papers with the ~~intent~~ purpose to deceive the commissioner or
14 the examiner; ~~or~~

15 (3) Any person or persons who shall make or publish any false
16 statement concerning the assets, liabilities, or affairs of any financial
17 institution; or

18 (4) Any person or persons who shall bribe or attempt to bribe or
19 offer any gratuity to the commissioner or any examiner.

20
21 SECTION 448. Arkansas Code § 23-50-107 is amended to read as follows:

22 23-50-107. False statements or records by officer, agent, or employee.

23 Every officer, agent, or employee of any financial institution
24 organized or doing business under the laws of the state who ~~willfully and~~
25 knowingly subscribes to or makes any false reports or any false statements or
26 entries in the books of the financial institution or knowingly subscribes or
27 exhibits any false writing or paper with the ~~intent~~ purpose to deceive any
28 person as to the condition of the financial institution is guilty of a Class
29 A misdemeanor.

30
31 SECTION 449. Arkansas Code § 23-50-108 is amended to read as follows:

32 23-50-108. False reports by commissioner or examiner -- Acceptance of
33 bribe.

34 Any commissioner or examiner who shall knowingly ~~and willfully~~ make a
35 false or fraudulent report of the condition of any financial institution with
36 the ~~intent~~ purpose to aid or abet its officers, owners, or agents in

1 continuing to operate an insolvent institution or to injure the financial
2 institution, or any examiner who shall receive or accept any bribe or
3 gratuity given for the purpose of inducing him or her not to file a true and
4 correct report of the condition thereof or who shall neglect to make an
5 examination thereof because of having received a bribe or gratuity, is guilty
6 of a Class D felony.

7
8 SECTION 450. Arkansas Code § 23-63-522 is amended to read as follows:
9 23-63-522. Criminal and civil proceedings.

10 (a) Whenever it appears to the Insurance Commissioner that any insurer
11 or any director, officer, employee, or agent of the insurer has committed a
12 willful violation of this subchapter, the commissioner may cause criminal
13 proceedings to be instituted in the circuit court for the county in which the
14 principal office of the insurer is located or, if the insurer has no office
15 in the state, then by the Circuit Court of Pulaski County, against the
16 insurer or the responsible director, officer, employee, or agent of the
17 insurer.

18 (b)(1) Any insurer which willfully violates this subchapter shall be
19 fined not more than ten thousand dollars (\$ 10,000).

20 (2) Any individual who willfully violates this subchapter shall
21 be fined not more than three thousand dollars (\$3,000) ~~or, if.~~ If the
22 willful violation involves the deliberate perpetration of a fraud upon the
23 commissioner, ~~imprisoned not more than two (2) years, or both~~ the individual
24 shall be guilty of a Class D felony.

25 (c) Any officer, director, or employee of an insurance holding company
26 system who ~~willfully and~~ knowingly subscribes to or makes or causes to be
27 made any false statements or false reports or false filings with the ~~intent~~
28 purpose to deceive the commissioner in the performance of his or her duties
29 under this subchapter, ~~upon conviction thereof, shall be fined not more than~~
30 ~~three thousand dollars (\$ 3,000), or imprisoned for not more than two (2)~~
31 ~~years, or both~~ guilty of a Class D felony. Any fines imposed shall be paid
32 by the officer, director, or employee in his or her individual capacity.

33 (d) Any insurer failing, without just cause, to file any registration
34 statement as required in this subchapter shall be required, after notice and
35 hearing, to pay a penalty of two hundred dollars (\$200) for each day's delay,
36 to be recovered by the commissioner, if necessary, by a civil suit therefor

1 brought by the commissioner in the Circuit Court of Pulaski County. The
2 commissioner may reduce the penalty hereunder if the insurer demonstrates to
3 the commissioner that the imposition of the penalty would constitute a
4 financial hardship to the insurer.

5 (e) Every director or officer of an insurance holding company system
6 who knowingly violates, participates in, or assents to, or who knowingly
7 shall permit any of the officers or agents of the insurer to engage in
8 transactions or make investments which have not been properly reported or
9 submitted pursuant to §§ 23-63-506 -- 23-63-513, or which violate this
10 subchapter, shall pay, in their individual capacity, a civil penalty of not
11 more than five thousand dollars (\$5,000) per violation, after notice and
12 hearing before the commissioner. In determining the amount of the civil
13 penalty, the commissioner shall take into account the appropriateness of the
14 forfeiture with respect to the gravity of the violation, the history of
15 previous violations, and such other matters as justice may require.

16 (f) Whenever it appears to the commissioner that any insurer subject
17 to this subchapter or any director, officer, employee, or agent thereof has
18 engaged in any transaction or entered into a contract which is subject to §
19 23-63-515 and which would not have been approved had such approval been
20 requested, the commissioner may order the insurer to cease and desist
21 immediately any further activity under that transaction or contract. After
22 notice and hearing, the commissioner may also order the insurer to void any
23 such contracts and restore the status quo if such an action is in the best
24 interest of the policyholders, creditors, or the public.

25

26 SECTION 451. Arkansas Code § 23-69-134(c), regarding maintenance of
27 home office and records, is amended to read as follows:

28 (c)(1) Removal of all or a material part of the records or assets of a
29 domestic insurer from this state except pursuant to a plan of merger or
30 consolidation approved by the commissioner under the Arkansas Insurance Code,
31 or for such other reasonable purposes and periods of time as may be approved
32 by the commissioner in writing in advance of the removal, or concealment of
33 the records or assets or material part thereof from the commissioner is
34 prohibited.

35 (2) Any person who removes or attempts to remove the records or
36 assets or the material part thereof from the home office or other place of

1 business or of safekeeping of the insurer in this state with the ~~intent~~
2 purpose to remove them from this state, or who conceals or attempts to
3 conceal them from the commissioner, in violation of this subsection, shall
4 ~~upon conviction~~ be guilty of a Class D felony ~~punishable by a fine of not~~
5 ~~more than ten thousand dollars (\$10,000) or by imprisonment in the~~
6 ~~penitentiary for not more than five (5) years or by both fine and~~
7 ~~imprisonment in the discretion of the court.~~

8 (3) Upon any removal or attempted removal of the records or
9 assets, or upon retention of the records or assets or material part thereof
10 outside this state beyond the period specified in the commissioner's consent
11 under which the records were so removed, or upon concealment of or attempt to
12 conceal records or assets in violation of this section, the commissioner may
13 institute delinquency proceedings against the insurer pursuant to the
14 provisions of § 23-68-101 et seq.

15
16 SECTION 452. Arkansas Code § 5-53-131 is amended to read as follows:

17 5-53-131. Frivolous, groundless, or malicious prosecutions.

18 Any officer or any person who shall knowingly bring or aid and
19 encourage others to bring frivolous, groundless, or malicious prosecutions
20 shall be ~~deemed~~ guilty of a Class A misdemeanor.

21
22 SECTION 453. Arkansas Code § 5-54-102 is amended to read as follows:

23 5-54-102. Obstructing governmental operations.

24 (a) A person commits the offense of obstructing governmental
25 operations if the person:

26 (1) Knowingly obstructs, impairs, or hinders the performance of
27 any governmental function;

28 (2) Knowingly refuses to provide information requested by an
29 employee of a governmental agency relating to the investigation of a case
30 brought under Title IV-D of the Social Security Act and is the physical
31 custodian of the child in the case;

32 (3) Fails to submit to court-ordered scientific testing by a
33 noninvasive procedure to determine the paternity of a child in a case brought
34 under Title IV-D of the Social Security Act; or

35 (4) Falsely identifies himself or herself to a law enforcement
36 officer.

1 (b) Obstructing governmental operations by using or threatening to use
2 physical force is a Class A misdemeanor. Otherwise, obstructing governmental
3 operations is a Class C misdemeanor.

4 (c) This section shall not apply to:

5 (1) Unlawful flight by a person charged with an offense; ~~or~~

6 (2) Refusal to submit to arrest; ~~or~~

7 (3) Any means of avoiding compliance with the law not involving
8 affirmative interference with governmental functions unless specifically set
9 forth in this section; or

10 (4) ~~The obstruction~~ Obstruction, impairment, or hindrance of
11 what a person reasonably believes is a public servant's unlawful action by a
12 public servant.

13
14 SECTION 454. Arkansas Code § 23-3-304 is amended to read as follows:

15 23-3-304. Penalties.

16 (a) Any person who ~~willfully and~~ knowingly does or causes to be done
17 any act, matter, or thing prohibited or declared to be unlawful by this
18 subchapter, or who ~~willfully and~~ knowingly omits or fails to do any act,
19 matter, or thing required by this subchapter to be done, or ~~willfully and~~
20 knowingly causes such an omission or failure, shall be punished upon
21 conviction thereof by a fine of not more than five thousand dollars (\$5000)
22 or by imprisonment for not more than two (2) years, or both. In addition,
23 the violation shall be punishable upon conviction by a fine not exceeding
24 five hundred dollars (\$500) for each day during which the offense occurs.

25 (b) Any person who ~~willfully and~~ knowingly violates any rule,
26 regulation, restriction, condition, or order made or imposed by the Arkansas
27 Public Service Commission under authority of this subchapter shall be guilty
28 of a violation and, in addition to any other penalties provided by law, be
29 punished upon conviction by a fine not exceeding five hundred dollars (\$500)
30 for each day during which such an offense occurs.

31 (c) In addition, should any person consummate, by whatever means, the
32 acquisition of any of the voting securities of a domestic public utility in
33 violation of this subchapter, the commission upon finding that one (1) or
34 more of the conditions set forth in § 23-3-310 exist or will exist by virtue
35 of the acquisition, may order the immediate divestiture of so much of the
36 voting securities held by that person as, in the commission's opinion, is

1 necessary to remove the domestic public utility from the control of that
2 person.

3

4 SECTION 455. Arkansas Code § 23-13-257 is amended to read as follows:

5 23-13-257. Violations by carriers, shippers, brokers, etc., or
6 employees, agents, etc. – Penalties.

7 Any person, whether a carrier, shipper, consignee, or broker, or any
8 officer, employee, agent, or representative thereof who shall knowingly
9 offer, grant, or give or solicit, accept, or receive any rebate, concession,
10 or discrimination in violation of any provision of this subchapter; who by
11 means of any false statement or representation, or by the use of any false or
12 fictitious bill, bill of lading, receipt, voucher, roll, account, claim,
13 certificate, affidavit, deposition, lease, or bill of sale, or by any other
14 means or device shall knowingly ~~and willfully~~ assist, suffer, or permit any
15 persons, natural or artificial, to obtain transportation of passengers or
16 property subject to this subchapter for less than the applicable fare, rate,
17 or charge; who shall knowingly ~~and willfully~~ by any such means or otherwise
18 fraudulently seek to evade or defeat regulation as in this subchapter is
19 provided for motor carriers or brokers; or who shall violate any of the
20 regulations, including safety regulations, prescribed or hereafter prescribed
21 by the State Highway Commission pursuant to the provisions of Title 23 of
22 this Code, shall be deemed guilty of a ~~misdemeanor~~ violation. Upon
23 conviction that person, unless otherwise provided in this chapter, shall be
24 fined not more than five hundred dollars (\$500) for the first offense and not
25 less than five hundred dollars (\$500) nor more than one thousand dollars
26 (\$1,000) for any subsequent offense.

27

28 SECTION 456. Arkansas Code § 23-50-109 is amended to read as follows:

29 23-50-109. Disclosure of information or false report by examiner.

30 Any examiner who shall disclose any information obtained by him or her
31 in the course of his or her employment, except to the Bank Commissioner or
32 the directors of the financial institution, or when subpoenaed as a witness
33 in a legal proceeding, or who shall knowingly ~~and willfully~~ make, state, or
34 publish any false statement or report concerning the assets, liabilities, or
35 affairs of the financial institution, shall be immediately removed from
36 office, shall be liable under his or her official bond to the institution

1 injured, and is guilty of a Class D felony.

2
3 SECTION 457. Arkansas Code § 23-78-111 is amended to read as follows:
4 23-78-111. Fees -- Oath at payment.

5 (a)(1)(A) In order to meet the expense of supervision and of carrying
6 out the other provisions of this chapter, the Burial Association Board shall
7 have and is given the power and authority to set license fees for burial
8 associations, subject to its jurisdiction as set forth in § 23-78-109.

9
10 (B) The board shall determine the amount of such fees
11 based on a burial association's membership or reserves, or a combination
12 thereof.

13 (2) The board shall collect the annual license fee from each
14 burial association that is operating and in good standing on January 1 of the
15 year in which the license fee is payable.

16 (b)(1) The fee shall be due and payable to the board not later than
17 February 1 of each year, and upon payment of the fee, the board shall issue
18 to each burial association a license which shall entitle the association to
19 do business in the State of Arkansas during the calendar year for which the
20 license is issued.

21 (2) If the license fee for any year shall not be paid within
22 thirty (30) days from the date upon which it is due, the board may revoke and
23 cancel the authorization of the delinquent burial association to transact
24 business in the State of Arkansas.

25 (c) It shall be the duty of every burial association to certify under
26 oath at the time of the payment of the license fee the true and correct
27 membership of the burial association on January 1 of the applicable year.

28 (d) If any officer or agent of any burial association shall knowingly
29 ~~or willfully~~ make any false statement with respect to the information
30 required by this section to be furnished, he or she shall be guilty of a
31 Class A misdemeanor ~~and, upon conviction, shall be fined not more than five~~
32 ~~hundred dollars (\$ 500) or imprisoned not more than six (6) months, or both.~~

33 (e) The board shall have and is given the power and authority to
34 reduce or increase, temporarily or permanently, the fees set forth in
35 subsection (a) of this section if the board deems such an action advisable.

36

1 SECTION 458. Arkansas Code § 23-89-504 is amended to read as follows:
2 23-89-504. Safety inspection and insurance required - Enforcement -
3 Violations.

4 (a) It is unlawful for any person or entity to operate an amusement
5 attraction or amusement ride, unless the person or entity maintains liability
6 insurance in the minimum amount required by this subchapter at all times
7 during the operation of the amusement attraction or ride in the state and,
8 unless the person has a current safety inspection report made at the time of
9 set-up of the attraction or ride, but before use by the public.

10 (b)(1) The Director of the Department of Labor may conduct
11 examinations and investigations into the affairs of any person or entity
12 subject to the provisions of this subchapter for the purpose of determining
13 compliance with the provisions of this subchapter.

14 (2) The director shall administer and enforce the provisions of
15 this subchapter.

16 (3) The director shall promulgate regulations for the proper
17 administration and enforcement of this subchapter, including regulations
18 establishing minimum safety requirements for the operation and maintenance of
19 amusement rides and attractions.

20 (4) The director shall employ amusement ride inspectors
21 certified by the National Association of Amusement Ride Safety Officials.

22 (c) If the director finds that an operator or owner has failed to
23 comply with the provisions of this subchapter, he or she may order the
24 operator or owner to immediately cease operating the amusement attraction or
25 ride and may impose upon the operator or owner an administrative penalty of
26 not more than ten thousand dollars (\$10,000).

27 (d)(1) If the director finds that an operator or owner failed to
28 comply with the provisions of this subchapter, he or she shall so inform the
29 prosecuting attorney in whose district any purported violation may have
30 occurred.

31 (2)(A) Upon conviction, the operator or owner shall be guilty of
32 a Class A misdemeanor.

33 (B) Upon conviction of a ~~willful or~~ knowing violation, the
34 operator or owner shall be guilty of a Class D felony.

35 (3) Each day of violation shall constitute a separate offense.

36 (e) The director shall have authority to bring a civil action in any

1 court of competent jurisdiction, without payment of costs or giving bond for
2 costs, to recover any administrative penalty imposed pursuant to this
3 subchapter or to recover any delinquent fees owed pursuant to this
4 subchapter.

5 (f) The director and his or her deputies, assistants, examiners, and
6 employees and the Director of the Department of Arkansas State Police and his
7 or her deputies, officers, assistants, and employees and any public law
8 enforcement officer shall not be liable for any damages occurring as a result
9 of the implementation of this subchapter.

10

11 SECTION 459. Arkansas Code § 23-103-103 is amended to read as follows:
12 23-103-103. Penalties.

13 (a)(1) Any person violating any of the provisions of this chapter
14 shall be guilty of a ~~misdemeanor~~ violation and upon conviction shall be
15 punished by a fine of not less than five hundred dollars (\$500) nor more than
16 one thousand dollars (\$1,000) for each offense.

17 (2) Each succeeding day on which this chapter is violated shall
18 be a separate offense.

19 (b) If any title insurance agent shall ~~willfully and~~ knowingly falsify
20 any public record or information required to be furnished, the title
21 insurance agent shall be guilty of a Class D felony in addition to any civil
22 liability.

23

24 SECTION 460. Arkansas Code § 23-66-502 is amended to read as follows:
25 23-66-502. Fraudulent insurance acts, interferences, and participation
26 of convicted felons prohibited.

27 (a) A person shall not commit a fraudulent insurance act.

28 (b) A person shall not knowingly ~~or intentionally~~ interfere with the
29 enforcement of the provisions of this subchapter or investigations of
30 suspected or actual violations of this subchapter.

31 (c)(1) A person convicted of a felony involving dishonesty or breach
32 of trust shall not participate in the business of insurance, unless the
33 person was pardoned, the conviction was expunged, or the person has obtained
34 the written consent of the Insurance Commissioner pursuant to subsection (d)
35 of this section.

36 (2) A person in the business of insurance shall not knowingly ~~or~~

1 ~~intentionally~~ permit a person convicted of a felony involving dishonesty or
2 breach of trust to participate in the business of insurance, unless the
3 person was pardoned, the conviction was expunged, or the person has obtained
4 the written consent of the commissioner pursuant to subsection (d) of this
5 section.

6 (d)(1) A person described in subdivision (c)(1) of this section may
7 participate in the business of insurance if written consent is obtained from
8 the commissioner who, in the commissioner's sole discretion, may grant the
9 written consent upon a finding that to do so would not endanger the public
10 health, safety, and welfare.

11 (2) Notwithstanding any other provision in this subchapter, a
12 person convicted in this state of a felony involving a fraudulent insurance
13 act, dishonesty, or breach of trust after having obtained the written consent
14 of the commissioner under this subsection shall have the fine and term of
15 imprisonment for such a class of felony under the Arkansas Criminal Code
16 enhanced to that of the next highest classification and shall be permanently
17 disqualified from participating in the business of insurance in this state.
18 If after obtaining the written consent of the commissioner under this
19 subsection a person is convicted in a foreign jurisdiction of a felony
20 involving a fraudulent insurance act, dishonesty, or breach of trust, the
21 person shall be permanently disqualified from participating in the business
22 of insurance in this state.

23
24 SECTION 461. Arkansas Code § 5-37-510 is amended to read as follows:
25 5-37-510. Unauthorized copying or sale of recordings.

26 (a) As used in this section, unless the context otherwise requires:

27 (1) "Owner" means the person:

28 (A) Who owns the original fixation of sounds embodied in
29 the master phonograph record, master disc, master tape, master film, or other
30 device used for reproducing sounds on recordings upon which sound is recorded
31 and from which the transferred recorded sounds are directly derived; or

32 (B) The person who owns the right to record a live
33 performance;

34 ~~(1)~~(2) "Person" means any individual, firm, partnership,
35 corporation, or association; and

36 ~~(2)~~(3) "Recording" means the tangible medium on which sounds or

1 images are recorded or otherwise stored and includes any phonograph record,
2 audio or video disc, audio or video tape, wire, film, or other medium now
3 known or later developed on which sounds or images are recorded or otherwise
4 stored.

5 (b) It is unlawful for any person for commercial advantage or private
6 financial gain knowingly to:

7 (1) Transfer or cause to be transferred any sound recorded on a
8 phonograph record, disc, wire, tape, film, or other article on which sounds
9 are recorded, or any live performance, onto any recording without the consent
10 of the owner; or

11 (2) Sell, distribute, circulate, offer for sale, distribution,
12 or circulation, possess for the purpose of sale, distribution, or
13 circulation, cause to be sold, distributed, or circulated, offered for sale,
14 distribution, or circulation, or possessed for sale, distribution, or
15 circulation, any recording on which sounds or a performance have been
16 transferred, knowing it to have been made without the consent of the owner.

17 (c) It is unlawful for any person for commercial advantage or private
18 financial gain to sell, distribute, circulate, offer for sale, distribution,
19 or circulation, or possess for the purposes of sale, distribution, or
20 circulation, any recording on which sounds or images have been transferred
21 unless the recording bears the actual name and address of the transferor of
22 the sounds or images in a prominent place on its outside face, label, cover,
23 jacket, or package.

24 (d) This section does not apply to any person who transfers or causes
25 to be transferred any such sounds or images:

26 (1) Intended for or in connection with radio or television
27 broadcast transmission, for communication media, or related uses;

28 (2) For archival purposes;

29 (3) For educational purposes, with no compensation being derived
30 as a result of the transfer;

31 (4) For the internal operations of a business;

32 (5) With prior authorization by a court of competent
33 jurisdiction; or

34 (6) Solely for the personal use of the person transferring or
35 causing the transfer if the person transferring or causing the transfer has
36 no intention to evade the provisions or intent of this section, provided that

1 proof of intent shall be an element of the offense.

2 (e)(1) Any person violating the provisions of this section, upon
3 conviction, shall be deemed guilty of a Class A misdemeanor for the first
4 offense involving fewer than one hundred (100) sound recordings or fewer than
5 seven (7) audiovisual recordings.

6 (2) For a subsequent offense, and for offenses involving one
7 hundred (100) or more sound recordings, or seven (7) or more audiovisual
8 recordings, the person shall be deemed guilty of a Class D felony and shall
9 be subject to an additional fine not to exceed two hundred fifty thousand
10 dollars (\$250,000).

11 (f) This section shall neither enlarge nor diminish the rights of
12 parties in private litigation.

13 (g) When a person is convicted of any violation of this section, the
14 court in its judgment of conviction shall order the forfeiture and
15 destruction or other disposition of all recordings which do not conform to
16 the requirements of this section and all implements, devices, labels, or
17 equipment used in the manufacture of such recordings.

18 (h)(1) It shall be the duty of all law enforcement officers, upon
19 discovery, to confiscate all recordings that do not conform to the provisions
20 of this section.

21 ~~(2)(A) The recordings shall be delivered to the district~~
22 ~~attorney for the county in which the confiscation was made.~~

23 ~~(B) The district attorney, by court order, shall destroy~~
24 ~~or otherwise dispose of such recordings.~~

25 (2) It shall be the duty of law enforcement to, by court order,
26 destroy or otherwise dispose of such recordings.

27
28 SECTION 462. Arkansas Code § 3-3-206 is amended to read as follows:

29 3-3-206. Sale or delivery to retailer without valid license tax
30 receipt.

31 (a) Any manufacturer or jobber who shall sell or deliver intoxicating
32 liquor within the state to a retailer who does not possess a valid license
33 tax receipt, as provided for in this act, shall be guilty of a misdemeanor.
34 For the first offense he or she shall be ~~fined not less than two hundred~~
35 ~~fifty dollars (\$250) nor more than one thousand dollars (\$1,000) or~~
36 ~~imprisoned not less than thirty (30) days nor more than six (6) months, or~~

1 ~~both so fined and imprisoned within the discretion of the court or jury~~
2 guilty of a Class B misdemeanor. ~~The penalties prescribed herein shall be in~~
3 ~~addition to any other penalty prescribed by law.~~

4 (b) Any person found guilty a second time shall be ~~fined not less than~~
5 ~~fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or confined~~
6 ~~in the county jail not less than one (1) month nor more than six (6) months,~~
7 ~~or both so fined and imprisoned within the discretion of the court or jury~~
8 guilty of a Class A misdemeanor.

9
10 SECTION 463. Arkansas Code § 5-36-203 is amended to read as follows:
11 5-36-203. Penalties.

12 (a) Theft of public benefits is a Class B felony if the value of the
13 public benefit is two thousand five hundred dollars (\$2,500) or more.

14 (b) Theft of public benefits is a Class C felony if the value of the
15 public benefit is less than two thousand five hundred dollars (\$2,500) but
16 more than ~~two hundred dollars (\$200)~~ five hundred dollars (\$500).

17 (c) Theft of public benefits is a Class A misdemeanor if the value of
18 the public benefit is ~~two hundred dollars (\$200)~~ five hundred dollars (\$500)
19 or less.

20
21 SECTION 464. Arkansas Code § 5-37-212 is amended to read as follows:
22 5-37-212. Unlawfully using slugs.

23 (a) A person commits the offense of unlawfully using slugs if:

24 (1) With purpose to defraud, he or she obtains property or a
25 service sold or offered by means of a coin machine by inserting, depositing,
26 or using a slug in that machine; or

27 (2) He or she makes, possesses, or disposes of a slug with
28 purpose to enable a person to use it fraudulently in a coin machine.

29 (b) Unlawfully using slugs is a Class C felony if the value of
30 the property or slugs exceeds ~~one hundred dollars (\$100)~~ five hundred dollars
31 (\$500). Otherwise, it is a Class A misdemeanor.

32
33 SECTION 465. Arkansas Code § 5-53-112 is amended to read as follows:
34 5-53-112. Retaliation against a witness, informant, or juror.

35 (a) A person commits the offense of retaliation against a witness,
36 informant, or juror if he or she harms or threatens to harm another by any

1 unlawful act in retaliation for anything lawfully done in the capacity of
2 witness, informant, or juror.

3 (b) Retaliation against an ~~informant who is recognized as such by the~~
4 ~~county sheriff, the chief of police of a first or second class city, an~~
5 ~~officer of the State Police, or any of their respective designees, informant,~~
6 a juror, or a witness is a Class D felony.

7 ~~(c) Retaliation against any juror or witness or retaliation against an~~
8 ~~informant not recognized as such by law enforcement is a Class A~~
9 ~~misdemeanor.~~

10 (c) An informant is a person who provides information to any law
11 enforcement agency in an effort to assist that agency in solving crimes or
12 apprehending persons suspected of criminal offenses.
13

14 SECTION 466. Arkansas Code § 5-53-114 is amended to read as follows:

15 5-53-114. Intimidating a ~~juror~~ juror, a witness, or an informant.

16 (a) A person commits the offense of intimidating a ~~juror~~ juror, a
17 witness, or an informant if he or she threatens a ~~juror~~ juror, a witness, or
18 an informant with the purpose of influencing the juror's vote or decision or
19 ~~other action as a juror~~ the witness's or informant's statement or testimony.

20 (b) Intimidating a ~~juror~~ juror, a witness, or an informant is a Class
21 C felony.

22 (c) An informant is a person who provides information to any law
23 enforcement agency in an effort to assist that law enforcement agency in
24 solving crimes and apprehending persons suspected of criminal offenses.
25

26 SECTION 467. Arkansas Code § 5-69-101 is amended to read as follows:

27 5-69-101. Extension of gas pipe without permission.

28 (a) It is declared to be unlawful for any person, in any manner
29 whatever, to change, extend, or alter, or to cause to be changed, extended,
30 or altered, any service or other pipe or attachment of any kind, by or
31 through which natural or artificial gas is furnished from the gas mains or
32 pipes of any person, company, or corporation without first securing from that
33 person, company, or corporation written permission to make such change,
34 extension, or alteration.

35 (b) Any person violating any provision of subsection (a) of this
36 section shall, upon conviction, be ~~fined in any sum not less than five~~

1 ~~dollars (\$5.00) nor more than one hundred dollars (\$100) for such offense~~
2 guilty of a Class A misdemeanor.

3
4 SECTION 468. Arkansas Code §§ 5-72-102 and 5-72-103 are amended to
5 read as follows:

6 5-72-102. Removal of trees growing on navigable rivers or streams.

7 (a) It is unlawful to remove any trees growing below the normal high
8 watermark, as defined in § 15-22-202(6), on any river or stream in this state
9 which has been designated as a navigable river or stream by legislative act.
10 Provided, authorized representatives of the United States Government or of
11 this state who are charged with the responsibility of maintaining navigation
12 and flood control on navigable rivers and streams may remove such trees
13 growing below the normal high watermark of navigable rivers and streams as
14 they deem necessary to properly carry out their duties.

15 (b) Any person violating the provisions of this section shall be
16 guilty of a ~~misdemeanor~~ violation and upon conviction shall be punished by a
17 fine of not less than ~~ten dollars (\$10.00)~~ one hundred dollars (\$100) nor
18 more than one thousand dollars (\$1,000).

19
20 5-72-103. Cutting timber on swamp and overflowed lands.

21 ~~(a) Any person who cuts, destroys, or removes any timber standing on~~
22 ~~any of the swamp and overflowed lands granted by Congress to this state shall~~
23 ~~be subject to indictment and on conviction shall be fined the full value of~~
24 ~~the timber cut, destroyed, or carried away and be imprisoned not less than~~
25 ~~two (2) nor more than twenty (20) days~~ guilty of a Class B misdemeanor.
26 Additionally, restitution shall be set at full value of the timber cut,
27 destroyed, or carried away.

28 ~~(b) However, any person residing on swamp or overflowed lands shall~~
29 ~~have the right to cut any timber growing on the tract which he may occupy for~~
30 ~~his own use for building or farming purposes.~~

31
32 SECTION 469. Arkansas Code §§ 5-72-105 – 5-72-107 are amended to read
33 as follows:

34 5-72-105. Obstruction of drains by timber or material - Floating logs
35 or boom.

36 (a) It shall be unlawful for any person or corporation to cause any

1 timber, tree, or material to be felled or thrown into any ditch, drain,
2 stream, or canal, whether natural or artificial, which will tend to obstruct
3 the free flow of water therein. However, this subsection shall not prevent
4 any person from floating logs or having a boom in any natural stream in this
5 state, where the same does not tend to overflow the lands adjacent to the
6 boom.

7 (b) Any person or persons or levee or drainage district interested in
8 the maintenance of the free flow of water through any stream, drain, ditch,
9 or canal may, where there is any timber, tree, or material in any such
10 stream, ditch, drain, or canal, which tends to obstruct the free flow of
11 water, remove them and shall have a cause of action against any person or
12 corporation who may have felled or thrown, or caused to be felled or thrown
13 timber, trees, or material into a stream, drain, ditch, or canal, for the
14 reasonable cost of removing the same, whether the obstruction was placed in
15 the stream, ditch, drain, or canal either before or after the passage of this
16 section.

17 (c) Any person or corporation who shall violate subsection (a) of this
18 section shall be guilty of a ~~misdemeanor violation~~ and on conviction shall be
19 fined in any sum not less than ~~ten dollars (\$10.00)~~ one hundred dollars
20 (\$100) nor more than ~~five hundred dollars (\$500)~~ one thousand dollars
21 (\$1,000).

22

23 5-72-106. Obstructing natural drains.

24 (a) It shall be unlawful for any person to obstruct in any manner any
25 natural drain in this state.

26 (b) Any person who shall so obstruct any natural drain shall be deemed
27 guilty of a ~~misdemeanor violation~~ and upon conviction shall be fined in any
28 sum not less than ~~ten dollars (\$10.00)~~ one hundred dollars (\$100) nor more
29 than ~~one hundred dollars (\$100)~~ one thousand dollars (\$1,000).

30 (c) This section shall not apply to the following counties: Lee,
31 Woodruff, Phillips, and Craighead.

32

33 5-72-107. Keeping dams sufficiently open.

34 (a) Any person owning, operating, or controlling any dam or other
35 obstruction across any river, creek, or other stream in this state shall at
36 all times keep the dam or other obstruction open so as to permit a flow of

1 water sufficient to maintain fish life in the stream below the dam or other
2 obstruction.

3 (b) Any person violating the provisions of this section shall be
4 guilty of a ~~misdemeanor~~ violation and on conviction shall be fined in any sum
5 not less than one hundred dollars (\$100) nor more than ~~five hundred dollars~~
6 ~~(\$500)~~ one thousand dollars (\$1,000).

7
8 SECTION 470. Arkansas Code § 5-72-110 is amended to read as follows:

9 5-72-110. Driving on levees - Destruction of barricades —~~Duty of~~
10 ~~justice of the peace.~~

11 (a) Any person who shall drive any vehicle or ride on any public
12 levee, or any private levee without the consent of the owner using the same
13 as a road bed, or who shall cut, tear down, destroy, or injure barricades,
14 fences, or other constructions erected or built for the protection of the
15 levee, shall be deemed guilty of a Class B misdemeanor ~~and on conviction~~
16 ~~shall be fined in any sum not less than five dollars (\$5.00) nor more than~~
17 ~~fifty dollars (\$50.00) or imprisonment in the county jail not less than five~~
18 ~~(5) nor more than thirty (30) days, or both, at the discretion of the court~~
19 ~~having jurisdiction, provided, the levees are constructed and maintained for~~
20 ~~the purpose of protection against overflow.~~

21 ~~(b) It shall be the duty of any justice of the peace, whenever it~~
22 ~~appears from the oath of any person that such offense has been committed, or~~
23 ~~whenever he is cognizant of the offense, to issue his warrant of arrest for~~
24 ~~the person so offending. The justice shall order the sheriff or constable to~~
25 ~~take in custody the vehicle so driven on the levee, which, in default of the~~
26 ~~payment of the fine, shall be applied toward satisfaction of any fine that~~
27 ~~may be imposed under the provisions of this section.~~

28 ~~(c) Any justice of the peace who shall refuse or fail to receive the~~
29 ~~complaint of any person charging any other person with a violation of the~~
30 ~~preceding subsection, or shall fail to proceed with the hearing of the~~
31 ~~evidence upon which the complaint is based, shall be guilty of a misdemeanor,~~
32 ~~and upon indictment by the grand jury, and conviction thereon, shall be fined~~
33 ~~in any sum not more than one hundred dollars (\$100), with full costs of the~~
34 ~~same.~~

35 ~~(d)~~(b) The provisions of this section shall not apply in those cases
36 where:

1 (1) Roads have been laid out by the ~~properly constituted~~ lawful
2 authorities upon levees which have ceased to be of any practical use to the
3 county in the rear of the same; or

4 (2) The ~~proper~~ lawful authorities have established crossings
5 over the levees.

6
7 SECTION 471. Arkansas Code § 16-85-514 is amended to read as follows:
8 16-85-514. Disclosure of information.

9 (a) Every member of the grand jury must keep secret whatever ~~he~~
10 ~~himself~~ the member, or any other grand juror, may have said, or in what
11 manner he or she, or any grand juror, may have voted on a matter before them.

12 (b)(1) No grand juror shall disclose any evidence given before the
13 grand jury, except when lawfully required to testify as a witness in relation
14 thereto; nor shall he or she disclose the fact of any indictment having been
15 found against any person not in actual confinement, until the defendant shall
16 have been arrested thereon.

17 (2) Any grand juror violating the provisions of this subsection
18 shall be deemed guilty of a ~~misdemeanor~~ violation and, on conviction, shall
19 be fined in any sum not exceeding ~~one hundred dollars (\$100)~~ one thousand
20 dollars (\$1,000).

21 (c)(1) A member of the grand jury may, however, be required by a court
22 to disclose the testimony of a witness examined before the grand jury for the
23 purpose of ascertaining its consistency with the testimony given by the
24 witness on trial, or for the purpose of proceeding against the witness for
25 perjury in his or her testimony, or upon the trial of a prosecution of the
26 witness for perjury.

27 (2) It shall be the duty of the foreman of the grand jury to
28 communicate to the prosecuting attorney, when requested, the substance of the
29 testimony before them.

30 (d) A grand juror cannot be questioned for anything he may say or any
31 vote he may give relative to a matter legally before the grand jury, except
32 for a perjury he or she may have committed in making accusation or giving
33 testimony before his or her fellow jurors.

34
35 SECTION 472. Arkansas Code §§ 17-14-302 and 17-14-303 are amended to
36 read as follows:

1 17-14-302. License required – Membership in other organizations.

2 (a) On or after December 31, 2001, it shall be ~~unlawful~~ a Class B
3 misdemeanor for any individual to perform an appraisal or provide appraisal
4 services as defined herein, without holding a registration, license, or
5 certificate except as provided in § 17-14-104.

6 (b) No person shall be excluded from obtaining a registration,
7 license, or certification based solely upon membership or lack of membership
8 in any particular appraisal organization.

9
10 17-14-303. Unlicensed persons – Federally and nonfederally related
11 transactions.

12 (a) It shall be ~~unlawful~~ a Class B misdemeanor for any person who is
13 not licensed or certified pursuant to this chapter to perform appraisal
14 services as defined herein in connection with a federally related
15 transaction.

16 (b) An appraiser who does not hold an appraiser's classification which
17 permits the performance of a particular appraisal assignment for use in
18 federally related transactions must include in such an appraisal report a
19 statement that the appraisal may not be eligible for use in a federally
20 related transaction.

21
22 SECTION 473. Arkansas Code § 21-12-406 is amended to read as follows:

23 21-12-406. Failure to execute warrant - ~~Penalty~~ Recovery.

24 ~~Any officer to whom a warrant issued under § 21-6-403 may be directed~~
25 ~~and delivered who shall fail to execute or return the warrant or perform any~~
26 ~~duty required of him or her shall forfeit to the use of the county any sum~~
27 ~~not less than one hundred dollars (\$100) nor more than five hundred dollars~~
28 ~~(\$500), to be recovered by indictment. If an officer receives a warrant~~
29 issued under § 21-12-403 and fails to execute or return the warrant, the
30 officer shall be liable to the county in a civil action for an amount between
31 one hundred dollars (\$100) and five hundred dollars (\$500).

32
33 SECTION 474. Arkansas Code § 5-13-201 is amended to read as follows:

34 5-13-201. Battery in the first degree.

35 (a) A person commits battery in the first degree if:

36 (1) With the purpose of causing serious physical injury to

1 another person, he or she causes serious physical injury to any person by
2 means of a deadly weapon; ~~or~~

3 (2) With the purpose of seriously and permanently disfiguring
4 another person or of destroying, amputating, or permanently disabling a
5 member or organ of ~~his~~ that person's body, he or she causes such an injury to
6 any person; ~~or~~

7 (3) He or she causes serious physical injury to another person
8 under circumstances manifesting extreme indifference to the value of human
9 life; ~~or~~

10 (4) Acting alone or with one (1) or more other persons, he or
11 she commits or attempts to commit a felony, and in the course of and in
12 furtherance of the felony, or in immediate flight therefrom:

13 (A) He or she or an accomplice causes serious physical
14 injury to any person under circumstances manifesting extreme indifference to
15 the value of human life; or

16 (B) Another person who is resisting the offense or flight
17 causes serious physical injury to any person; ~~or~~

18 ~~(5)(A) He causes physical injury to a pregnant woman in the~~
19 ~~commission of a felony or a Class A misdemeanor causing her to suffer a~~
20 ~~miscarriage or stillbirth as a result of that injury; or~~

21 ~~(B) He recklessly causes physical injury to a pregnant~~
22 ~~woman or causes physical injury to a pregnant woman under circumstances~~
23 ~~manifesting extreme indifference to the value of human life causing her to~~
24 ~~suffer a miscarriage or stillbirth as a result of that injury.~~

25 ~~(C) As used in this subdivision (a)(5), unless the context~~
26 ~~otherwise requires:~~

27 ~~(i) "Physical injury" means the impairment of~~
28 ~~physical condition, including, but not limited to, the inability to complete~~
29 ~~a full term pregnancy, as defined by the pregnant woman's physician, or the~~
30 ~~infliction of substantial pain;~~

31 ~~(ii) "Miscarriage" means the interruption of the~~
32 ~~normal development of the fetus, other than by a live birth and which is not~~
33 ~~an induced abortion, resulting in the complete expulsion or extraction of a~~
34 ~~fetus from a pregnant woman; and~~

35 ~~(iii) "Stillbirth" means the death of a fetus prior~~
36 ~~to the complete expulsion or extraction from its mother, irrespective of the~~

1 duration of pregnancy and which is not an induced abortion, and death is
2 manifested by the fact that after the expulsion or extraction, the fetus does
3 not breathe spontaneously or show other evidence of life such as heart beat,
4 pulsation of the umbilical cord, or definite movement of voluntary muscles;
5 or

6 (5) With the purpose of causing serious physical injury to an
7 unborn child or to the woman who is pregnant with the unborn child, he or she
8 causes serious physical to the unborn child;

9 (6) He or she knowingly causes physical injury to a pregnant
10 woman in the commission of a felony or a Class A misdemeanor, and in so
11 doing, causes serious physical injury to the woman's unborn child, and the
12 unborn child is subsequently born alive;

13 ~~(6)~~(7) He or she intentionally or knowingly without legal
14 justification causes serious physical injury to one he or she knows to be
15 twelve (12) years of age or younger; or

16 ~~(7)~~(8) With the purpose of causing physical injury to another
17 person, he or she causes physical injury to any person by means of a
18 firearm.

19 (b) It is an affirmative defense in any prosecution under subdivision
20 (a)(4) of this section in which the defendant was not the only participant
21 that the defendant:

22 (1) Did not commit the battery or in any way solicit, command,
23 induce, procure, counsel, or aid its commission; and

24 (2) Was not armed with a deadly weapon; and

25 (3) Reasonably believed that no other participant was armed with
26 a deadly weapon; and

27 (4) Reasonably believed that no other participant intended to
28 engage in conduct which could result in serious physical injury.

29 (c) Battery in the first degree is a Class B felony.

30
31 SECTION 475. Arkansas Code § 5-64-406 is amended to read as follows:

32 5-64-406. Distribution to minors - Enhanced penalties.

33 (a) Any person eighteen (18) years of age or over who violates § 5-64-
34 401(a) by distributing a controlled substance listed in Schedules I or II
35 which is a narcotic drug or methamphetamine to a person under eighteen (18)
36 years of age who is at least three (3) years his junior is punishable by the

1 fine authorized by § 5-64-401(a)(1)(i), by a term of imprisonment of up to
2 twice that authorized by § 5-64-401(a)(1)(i), or by both.

3 (b) Any person eighteen (18) years of age or over who violates § 5-64-
4 401 by distributing any other controlled substance listed in Schedules I, II,
5 III, IV, and V to a person under eighteen (18) years of age who is at least
6 three (3) years his junior is punishable by the fine authorized by § 5-64-
7 401(a)(1)(ii), (iii), or (iv), by a term of imprisonment up to twice that
8 authorized by § 5-64-401(a)(1)(ii), (iii), or (iv), or both.

9
10 SECTION 476. Arkansas Code § 5-73-119 is amended to read as follows:

11 5-73-119. Handguns - Possession by minor or possession on school
12 property.

13 (a)(1)(A) No person in this state under the age of eighteen (18) years
14 shall possess a handgun.

15 (B)(i) A violation of subdivision (a)(1)(A) of this
16 section shall be a Class A misdemeanor.

17 (ii) A violation of subdivision (a)(1)(A) of this
18 section shall be a Class D felony if the person has previously:

19 (a) Been adjudicated delinquent for a
20 violation of subdivision (a)(1)(A) of this section; ~~or~~

21 (b) Been adjudicated delinquent for any
22 offense which would be a felony if committed by an adult; or

23 (c) Pleaded guilty or nolo contendere to, or
24 been found guilty of, a felony in circuit court while under the age of
25 eighteen (18) years.

26 (2)(A) No person in this state shall possess a firearm:

27 (i) Upon the developed property of the public or
28 private schools, K-12; ~~or~~

29 (ii) In or upon any school bus; or

30 (iii) At a designated bus stop as identified on the
31 route lists published by school districts each year.

32 (B) A violation of subdivision (a)(2)(A) of this section
33 shall be a Class D felony, and no sentence imposed for violation thereof
34 shall be suspended or probated or treated as a first offense under § 16-93-
35 301 et seq.

36 (3)(A) No person in this state shall possess a handgun upon the

1 property of any private institution of higher education or the publicly
2 supported institutions of higher education in this state on or about his
3 person, in a vehicle occupied by him, or otherwise readily available for use
4 with a purpose to employ it as a weapon against a person.

5 (B) A violation of subdivision (a)(3)(A) of this section
6 shall be a Class D felony.

7 (b) A "handgun" is a firearm, capable of firing rimfire ammunition or
8 centerfire ammunition, which is designed or constructed to be fired with one
9 (1) hand.

10 (c) It is a defense to prosecution under this section that at the time
11 of the act of possessing a handgun or firearm:

12 (1) The person is in his or her own dwelling or place of
13 business or on property in which he or she has a possessory or proprietary
14 interest; ~~or~~, except upon the property of a public or private institution of
15 higher learning;

16 (2) The person is a law enforcement officer, ~~prison guard~~
17 correctional officer, or member of the armed forces acting in the course and
18 scope of his or her official duties; ~~or~~

19 (3) The person is assisting a law enforcement officer, ~~prison~~
20 ~~guard~~ correctional officer, or member of the armed forces acting in the
21 course and scope of his or her official duties pursuant to the direction or
22 request of the law enforcement officer, ~~prison guard~~ correctional officer, or
23 member of the armed forces; ~~or~~

24 (4) The person is a licensed security guard acting in the course
25 and scope of his or her duties; ~~or~~

26 (5) The person is hunting game with a handgun or firearm which
27 may be hunted with a handgun or firearm under the rules and regulations of
28 the Arkansas State Game and Fish Commission or is en route to or from a
29 hunting area for the purpose of hunting game with a handgun or firearm; ~~or~~

30 (6) The person is a certified law enforcement officer; ~~or~~

31 (7) The person is on a journey, unless the person is eighteen
32 (18) years old or less; ~~or~~

33 (8) The person is participating in a certified hunting safety
34 course sponsored by the commission or a firearm safety course recognized and
35 approved by the commission or by a state or national nonprofit organization
36 qualified and experienced in firearm safety; ~~or~~

1 (9) The person is participating in a school-approved educational
2 course or sporting activity involving the use of firearms; or

3 (10) The person is a minor engaged in lawful marksmanship
4 competition or practice or other lawful recreational shooting under the
5 supervision of his parent, legal guardian, or other person twenty-one (21)
6 years of age or older standing in loco parentis or is traveling to or from
7 this activity with an unloaded handgun or firearm accompanied by his parent,
8 legal guardian, or other person twenty-one (21) years of age or older
9 standing in loco parentis.

10
11 SECTION 477. Arkansas Code § 16-93-1207 is amended to read as follows:
12 16-93-1207. Order of court.

13 (a) Upon the sentencing or placing on probation of any person under
14 the provisions of this subchapter, the sentencing court shall issue an order
15 or commitment, whichever is appropriate, in writing, setting forth the
16 following:

17 (1) That the offender is being:

18 (A) Committed to the Department of Correction;

19 (B) Committed to the Department of Correction with
20 judicial transfer to the Department of Community Correction;

21 (C) Placed on suspended imposition of sentence; or

22 (D) Placed on probation under the provisions of this
23 subchapter;

24 (2) That the offender has knowledge and understanding of the
25 consequences of the sentence or placement on probation and violations
26 thereof;

27 (3) A designation of sentence or supervision length along with
28 community ~~punishment~~ correction program distinctions of that sentence or
29 supervision length;

30 (4) Any applicable terms and conditions of the sentence or
31 probation term; and

32 (5) Presentence investigation or sentencing information,
33 including, but not limited to, criminal history elements and other
34 appropriate or necessary information for correctional use.

35 (b)(1) Upon the successful completion of probation or a commitment to
36 the Department of Correction with judicial transfer to the Department of

1 Community Correction for one of the offenses targeted by the General Assembly
2 for community ~~punishment~~ correction placement, the court may direct that the
3 record of the offender be expunged of the offense of which the offender was
4 either convicted under the following conditions, or placed on probation under
5 the condition that the offender has no more than one (1) previous felony
6 conviction and that the previous felony was other than a conviction for a
7 capital offense, murder in the first degree, murder in the second degree,
8 first degree rape, kidnapping, aggravated robbery, delivering controlled
9 substances to a minor, as prohibited in § 5-64-701(a)(2).

10 ~~(A) That the offender was under the age of twenty-six (26)~~
11 ~~years at the time of the commission of the felony offense and had no more~~
12 ~~than one (1) previous felony conviction and that the previous felony was~~
13 ~~other than a conviction for a capital offense, or murder in the first degree,~~
14 ~~murder in the second degree, first degree rape, kidnapping, or aggravated~~
15 ~~robbery; or~~

16 ~~(B) That the offender was over the age of eighteen (18)~~
17 ~~years of age and does not have a previous conviction for the offense of~~
18 ~~delivering controlled substances to a minor, as prohibited in § 5-64-~~
19 ~~701(a)(2); or~~

20 ~~(C) That the offender has no prior felony convictions.~~

21 (2) The fact that a prior felony conviction has been previously
22 expunged shall not prevent its counting as a prior conviction for the
23 purposes of this subsection.

24 (3) The procedure, effect, and definition of "expungement" for
25 the purposes of this subsection shall be in accordance with that established
26 in § 16-90-901 et seq.

27
28 SECTION 478. Arkansas Code § 16-93-1301 is amended to read as follows:
29 16-93-1301. Transfer provisions.

30 (a) As used in this subchapter, "felonies" means those crimes
31 classified as Class Y, Class A, Class B, Class C, Class D, or unclassified
32 felonies by the laws of this state.

33 (b)(1) Persons who committed felonies prior to January 1, 1994, and
34 who were convicted and incarcerated for those felonies, shall be eligible for
35 release on parole in accordance with the parole eligibility law in effect at
36 the time the crime was committed.

1 (2) Persons who committed target offenses under the Community
2 Punishment Act, § 16-93-1201 et seq., prior to January 1, 1994, and who have
3 not been sentenced to a term of incarceration, may waive the right to be
4 released under the parole eligibility law in effect at the time the crimes
5 were committed and shall become eligible for judicial transfer pursuant to
6 the transfer provisions provided in subdivision (c)(2) of this section.

7 (3) Persons who have committed felonies who are within a target
8 group as currently defined under § 16-93-1202(1)(1), and who are released on
9 parole shall be eligible, pursuant to rules and regulations established by
10 the Post Prison Transfer Board, for commitment to a community ~~punishment~~
11 correction facility if they are found to be in violation of any of their
12 parole conditions, unless the parole violation constitutes a nontarget felony
13 offense.

14 (4) [Expired].

15 (c) Persons who commit felonies on or after January 1, 1994, and who
16 shall be convicted and incarcerated for those felonies, shall be eligible for
17 transfer to community ~~punishment~~ correction as follows:

18 (1)(A) Inmates under sentence of death or life imprisonment
19 without parole shall not be eligible for transfer, but may be pardoned or
20 have their sentences commuted by the Governor, as provided by law.

21 (B) Inmates sentenced to life imprisonment shall not be
22 eligible for transfer unless the sentences are commuted to a term of years by
23 executive clemency.

24 (C) Upon commutation, inmates shall be eligible for
25 transfer as provided in this subchapter;

26 (2)(A)(i)(a) Offenders convicted of a target offense under the
27 Community Punishment Act, § 16-93-1201 et seq., may be committed to the
28 Department of Correction and judicially transferred to the Department of
29 Community Correction by specific provision in the commitment that the trial
30 court orders such a transfer.

31 (b) No other offenders are eligible for transfer to a Department of
32 Community Correction facility.

33 (ii) A copy of such commitment shall be immediately
34 forwarded to the Department of Correction and to the Department of Community
35 Correction.

36 (iii) In the event that an offender is sentenced to

1 the Department of Correction without judicial transfer on one (1) sentence
2 and concurrently sentenced to the Department of Correction with judicial
3 transfer on another sentence, the offender shall remain in the Department of
4 Correction, and the sentence with judicial transfer may be discharged in the
5 same manner as those offenders transferred back to the Department of
6 Correction.

7 (B) The Department of Community Correction shall take over
8 supervision of the offender in accordance with the order of the court.

9 (C) The Department of Community Correction shall provide
10 for the appropriate disposition of the offender as expeditiously as
11 practicable under rules and regulations developed by the Board of
12 Corrections.

13 (D) The offender shall not be transported to the
14 Department of Correction on the initial placement in a Department of
15 Community Correction facility pursuant to a judicial transfer.

16 (E) An offender who is transferred back to the Department
17 of Correction for disciplinary reasons may be considered for transfer to
18 Department of Community Correction supervision after earning good-time credit
19 equal to one-half (1/2) of the remainder of his sentence.

20 (F) An offender who is transferred back to the Department
21 of Correction for administrative reasons may be considered for transfer to
22 Department of Community Correction supervision after earning good-time credit
23 equal to one-half (1/2) of his sentence-; and

24 (3)(A) All other classified or unclassified felons who are
25 incarcerated therefor shall be eligible for transfer to community punishment
26 after having served one-third (1/3) or one-half (1/2), with credit for
27 meritorious good time, of their sentences depending on the seriousness
28 determination made by the Arkansas Sentencing Commission, or one-half (1/2),
29 with credit for meritorious good time, of the time to which their sentences
30 are commuted by executive clemency.

31 (B) For example, a six-year sentence with optimal
32 meritorious good time credits will make the offender eligible for transfer in
33 one (1) year if he or she is required to serve one third (1/3) of his or her
34 sentence, or one and one-half (1 1/2) years if he or she is required to serve
35 one-half (1/2) of his or her sentence.

36

1 SECTION 479. Arkansas Code § 17-81-303 is amended to read as follows:

2 17-81-303. Unlawful practice – Penalty – Injunction.

3 ~~(a) It shall be unlawful for any person not licensed under the~~
4 ~~provisions of this chapter:–~~

5 ~~(1) To practice or offer to practice chiropractic; or–~~

6 ~~(2) To use any sign, card, or device to indicate that the person~~
7 ~~is a professional licensed doctor of chiropractic.~~

8 (b)(a) Any person who shall practice or attempt to practice
9 chiropractic, as defined in this chapter, or use any sign, card, or device to
10 indicate that the person is a professional licensed doctor of chiropractic
11 without having first been licensed or otherwise permitted under the
12 provisions of this chapter to do so, shall be deemed guilty of a
13 misdemeanor. Upon conviction, he or she shall be punished by a fine of not
14 less than one thousand dollars (\$1,000) nor more than five thousand dollars
15 (\$5,000) or by imprisonment in the county jail for a period of not less than
16 one (1) month nor more than eleven (11) months, or by both fine and
17 imprisonment. Each day shall constitute a separate offense.

18 (e)(b) The courts of this state having general equity jurisdiction are
19 vested with jurisdiction and power to enjoin the unlawful practice of
20 chiropractic in a proceeding by the board or any member thereof, or by any
21 citizen of this state, in the county in which the alleged unlawful practice
22 occurred or in which the defendant resides, or in Pulaski County. The
23 issuance of an injunction shall not relieve a person from criminal
24 prosecution for violation of the provisions of this chapter, but the remedy
25 of injunction shall be in addition to liability to criminal prosecution.

26 (d)(1)(c)(1) It is unlawful for any person other than a physician
27 licensed to practice chiropractic under the provisions of the Arkansas
28 Chiropractic Practices Act, § 17-81-101 et seq., or a physician licensed to
29 practice medicine under the Arkansas Medical Practices Act, §§ 17-95-201 -
30 17-95-207, 17-95-301 - 17-95-305, and 17-95-401 - 17-95-411, to perform
31 spinal mobilizations, spinal adjustments, or spinal manipulations as those
32 terms are defined in § 17-81-102(7).

33 (2) Nothing contained in this subsection shall be construed to
34 limit or restrict the authority of a licensed physical therapist to practice
35 physical therapy as defined in
36 § 17-93-102(6).

1 (3) Any person violating the provisions of this subsection shall
2 be guilty of a ~~misdemeanor~~ violation and upon conviction shall be punished by
3 a fine of not more than five thousand dollars (\$5,000), and each violation
4 shall constitute a separate offense.

5 ~~(e)-(1)(d)(1)~~ If the Arkansas State Board of Chiropractic Examiners
6 determines, after due notice and a hearing, that any provision of this
7 chapter or any regulation promulgated by the board pursuant to this chapter
8 has been violated, the board may impose a civil penalty not to exceed five
9 thousand dollars (\$5,000) per violation.

10 (2)(A) The board may file an action in the Circuit Court of
11 Pulaski County to collect any civil penalty not paid within thirty (30) days
12 of service of the order assessing the penalty unless the circuit court enters
13 a stay of the board's order.

14 (B) If the board prevails in the action, the defendant
15 shall be directed to pay reasonable attorney's fees and costs incurred by the
16 board in prosecuting the action in addition to the civil penalty.

17 (3) Any person aggrieved by an action of the board imposing
18 civil penalties may appeal the decision in the manner and under the procedure
19 prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,
20 for appeals from administrative decisions.

21
22 SECTION 480. Arkansas Code § 5-2-621 is amended to read as follows:

23 5-2-621. Attempting to protect persons during commission of a felony.

24 No persons shall be civilly liable for actions or omissions intended to
25 protect themselves or others from personal injuries during the commission of
26 a felony unless such actions or omissions constitute a felony.

27
28 SECTION 481. Arkansas Code §§ 5-26-303 – 5-26-305 are amended to read
29 as follows:

30 5-26-303. Domestic battering in the first degree.

31 (a) A person commits domestic battering in the first degree if:

32 (1)(A) With the purpose of causing serious physical injury to a
33 family or household member, he or she causes serious physical injury to a
34 family or household member by means of a deadly weapon; or

35 (B) With the purpose of seriously and permanently
36 disfiguring a family or household member or of destroying, amputating, or

1 permanently disabling a member or organ of a family or household member's
2 body, he or she causes such an injury to a family or household member; or

3 (C) He or she causes serious physical injury to a family
4 or household member under circumstances manifesting extreme indifference to
5 the value of human ~~life~~; or life.

6 ~~(2) He or she commits any act of domestic battering as defined in~~
7 ~~subdivisions (a)(1)(A) (C) of this section or § 5-26-304 or § 5-26-305 and,~~
8 ~~for conduct which occurred within the ten (10) years preceding the commission~~
9 ~~of the current offense, he or she has on two (2) previous occasions been~~
10 ~~convicted of any act of battery against a family or household member as~~
11 ~~defined by the laws of this state or by the equivalent laws of any other~~
12 ~~state or foreign jurisdiction.~~

13 (b)(1) Domestic battering in the first degree is a Class B felony.

14 (2) However, domestic battering in the first degree is a Class A
15 felony upon a conviction pursuant to subsection (a) of this section if
16 committed against a woman the person knew or should have known was pregnant
17 or if, for conduct which occurred within the five (5) years preceding the
18 commission of the current offense, the person has been:

19 (A) ~~Committed~~ Convicted of a prior offense of:

20 (i) Domestic battering in the first degree;

21 (ii) Domestic battering in the second degree, § 5-
22 26-304; or

23 (iii) Domestic battering in the third degree, § 5-
24 26-305; or

25 (B) ~~Violated~~ Convicted of an equivalent penal law of this
26 state or of another state or foreign jurisdiction.

27
28 5-26-304. Domestic battering in the second degree.

29 (a) A person commits domestic battering in the second degree if:

30 (1) With the purpose of causing physical injury to a family or
31 household member, he or she causes serious physical injury to a family or
32 household member; ~~or~~

33 (2) With the purpose of causing physical injury to a family or
34 household member, he or she causes physical injury to a family or household
35 member by means of a deadly weapon; or

36 (3) He or she recklessly causes serious physical injury to a

1 family or household member by means of a deadly weapon.

2 (b)(1) Domestic battering in the second degree is a Class C felony.

3 (2) However, domestic battering in the second degree is a Class
4 B felony ~~if~~ if:

5 (A) ~~committed~~ Committed against a woman the person knew or
6 should have known was pregnant; ~~or if~~,

7 (B) ~~For~~ For conduct which occurred within the five (5)
8 years preceding the commission of the current offense, the person has been
9 convicted of a prior offense of:

10 ~~(A) Committed a prior offense of:~~

11 (i) Domestic battering in the first degree, § 5-26-
12 303;

13 (ii) Domestic battering in the second degree;

14 (iii) Domestic battering in the third degree, § 5-
15 26-305; or

16 ~~(B)(iv) Violated an~~ An equivalent penal law of this
17 state or of another state or foreign ~~jurisdiction,~~ jurisdiction; or

18 (C) For conduct which occurred within the ten (10) years
19 preceding the commission of the current offense, the person has on two (2)
20 previous occasions been convicted of any act of battery against a family or
21 household member as defined by the laws of this state or by the equivalent
22 laws of any other state or foreign jurisdiction.

23
24 5-26-305. Domestic battering in the third degree.

25 (a) A person commits domestic battering in the third degree if:

26 (1) With the purpose of causing physical injury to a family or
27 household member, a person causes physical injury to a family or household
28 member; ~~or~~

29 (2) A person recklessly causes physical injury to a family or
30 household member; ~~or~~

31 (3) A person negligently causes physical injury to a family or
32 household member by means of a deadly weapon; or

33 (4) A person purposely causes stupor, unconsciousness, or
34 physical or mental impairment or injury to a family or household member by
35 administering to a family or household member, without the family or
36 household member's consent, any drug or other substance.

1 (b)(1) Domestic battering in the third degree is a Class A
2 misdemeanor.

3 (2) However, domestic battering in the third degree is a Class D
4 felony ~~if~~ if:

5 (A) ~~committed~~ Committed against a woman the person knew or
6 should have known ~~was pregnant; or if,~~

7 (B) ~~for~~ For conduct which occurred within the five (5)
8 years preceding the commission of the current offense, the person has been
9 convicted of a prior offense of:

10 ~~(A) Committed a prior offense of:~~

11 (i) Domestic battering in the first degree, § 5-26-
12 303;

13 (ii) Domestic battering in the second degree, § 5-
14 26-304;

15 (iii) Domestic battering in the third degree; or

16 ~~(B)(iv) Violated~~ an equivalent penal law of this state or
17 of another state or foreign ~~jurisdiction~~ jurisdiction; or

18 (C) For conduct which occurred within the ten (10) years
19 preceding the commission of the current offense, the person has on two (2)
20 previous occasions been convicted of any act of battery against a family or
21 household member as defined by the laws of this state or by the equivalent
22 laws of any other state or foreign jurisdiction.

23
24 SECTION 482. Arkansas Code § 5-41-206 is amended to read as follows:
25 5-41-206. Computer password disclosure.

26 (a) A person commits computer password disclosure if the person
27 purposely and without authorization discloses a number, code, password, or
28 other means of access to a computer or computer network that is subsequently
29 used to access a computer or computer network.

30 (b) Computer password disclosure is a Class A misdemeanor.

31 (c) If the violation of subsection (a) of this section was committed
32 to devise or execute a scheme to defraud or illegally obtain property, the
33 person is guilty of a Class D felony.

34
35 SECTION 483. Arkansas Code § 5-71-228 is amended to read as follows:
36 5-71-228. Obstruction of shooting, hunting, fishing, or trapping

1 activities.

2 (a) It is unlawful for any person to willfully obstruct or impede the
3 participation of any individual in the lawful activity of shooting, hunting,
4 fishing, or trapping in this state. Provided, that nothing in this section
5 shall prohibit a landowner or lessee from exercising his or her lawful right
6 to prohibit hunting, fishing, or trapping on his or her land, or from
7 exercising any other legal right.

8 (b)(1) A court of general jurisdiction may enjoin conduct which would
9 be in violation of subsection (a) of this section upon petition by a person
10 affected or who reasonably may be affected by such conduct, upon a showing
11 that such conduct is threatened or that it has occurred on a particular
12 premises in the past and that it is not unreasonable to expect that under
13 similar circumstances it will be repeated.

14 (2)(A) A court of general jurisdiction may award damages to any
15 person adversely affected by a violation of subsection (a) of this section
16 which may include an award for punitive damages.

17 (B) In addition to other items of special damage, measure
18 of damages may include expenditures of the affected person for license and
19 permit fees, travel, guides, special equipment, and supplies, to the extent
20 that such expenditures were rendered futile by prevention of taking of a wild
21 animal or fish.

22 (c)(1) Any person violating the provisions of this section and in
23 possession of a firearm shall be guilty of a Class A misdemeanor, ~~and, upon~~
24 ~~conviction thereof, shall be punished by a fine of not less than one hundred~~
25 ~~dollars (\$100) nor more than five hundred dollars (\$500), or imprisonment for~~
26 ~~not to exceed thirty (30) days, or both, and if otherwise it is a Class B~~
27 misdemeanor.

28 (2) If such a person holds an Arkansas hunting, fishing, or
29 trapping license at the time of conviction, ~~such the~~ license shall be
30 revoked.

31 (d) This section shall not prevent any wildlife officer or other law
32 enforcement officer from performing his or her duties.

33

34 SECTION 484. Arkansas Code § 7-3-108 is amended to read as follows:

35 7-3-108. ~~Communist or subversive~~ Subversive parties - New parties -
36 Affidavit required - Penalty.

1 (a) No political party shall be recognized, qualified to participate,
2 or permitted to have the names of its candidates printed on the ballot in any
3 election in this state:

4 ~~(1) Which is directly or indirectly affiliated by any means~~
5 ~~whatsoever with the Communist Party of the United States, the Third Communist~~
6 ~~International, or any other foreign agency, political party, organization, or~~
7 ~~government; or~~

8 ~~(2)(1)~~ Which either directly or indirectly advocates, teaches,
9 justifies, aids, or abets the overthrow by force or violence, or by any
10 unlawful means, of the government of the United States or this state, or act
11 of terrorism as defined by § 5-54-205; or

12 ~~(3)(2)~~ Which directly or indirectly carries on, advocates,
13 teaches, justifies, aids, or abets a program of sabotage, force and violence,
14 sedition, or treason against the government of the United States or this
15 state.

16 (b)(1) No newly organized political party shall be recognized,
17 qualified to participate, or permitted to have the names of its candidates
18 printed on the ballot in any election in this state until it has filed an
19 affidavit, by the officers of the party in this state under oath, that:

20 ~~(A) It is not directly or indirectly affiliated by any~~
21 ~~means whatsoever with the Communist Party of the United States, the Third~~
22 ~~Communist International, or any other foreign agency, political party,~~
23 ~~organization, or government;~~

24 ~~(B)(A)~~ It does not either directly or indirectly advocate,
25 teach, justify, aid, or abet the overthrow by force or violence or by any
26 unlawful means of the government of the United States or this state, or act
27 of terrorism as defined by § 5-54-205; or

28 ~~(C)(B)~~ It does not directly or indirectly carry on, advocate,
29 teach, justify, aid, or abet a program of sabotage, force and violence,
30 sedition, or treason against the government of the United States or this
31 state.

32 (2) The affidavit shall be filed with the Secretary of State.

33 (c) Any person who shall violate any provision of this section shall
34 be guilty of a Class A misdemeanor ~~misdemeanor, and upon conviction the~~
35 ~~person shall be fined in any sum not less than one hundred dollars (\$100) nor~~
36 ~~more than one thousand dollars (\$1,000) and, in addition thereto, may be~~

1 ~~imprisoned for not more than six (6) months.~~

2
3 SECTION 485. Arkansas Code § 23-110-405 is amended to read as follows:
4 23-110-405. Wagering -- Penalty for improper wagering.

5 (a)(1) Any franchise holder conducting a horse racing meet may provide
6 a place or places in the race meeting grounds or enclosure at which it may
7 conduct and supervise the pari-mutuel or certificate system of wagering.

8 (2) If conducted under the provisions of this chapter, the pari-
9 mutuel or certificate method of wagering shall not under any circumstances be
10 held or construed to be unlawful, all other laws or parts of laws of the
11 State of Arkansas to the contrary notwithstanding.

12 (b)(1) With the prior approval of the Arkansas Racing Commission and
13 consistent with applicable federal law, a franchise holder may enter into
14 agreements and arrangements with other parties pursuant to which:

15 (A) Its patrons may wager on races run at other race
16 tracks which are shown live or in any other manner approved by the
17 commission, by television, or otherwise, at locations on the grounds at the
18 Arkansas race track at any time or times during the calendar year; and

19 (B) Its races are shown live or in any other manner
20 approved by the commission at other race tracks and locations.

21 (2) Such agreements and arrangements shall specify all
22 financial, wagering, distribution, and other details which shall govern. To
23 that end, the provisions of §§ 23-110-402 and 23-110-407 and any other
24 inconsistent provisions shall not be applicable to such agreements and
25 arrangements.

26 (3)(A) For all races simulcast to the grounds of the franchise
27 holder's Arkansas race track from other race tracks and races conducted in
28 the past and rebroadcast by electronic means and shown on a delayed or
29 replayed basis on the grounds of the franchise holder's Arkansas race track
30 under subdivision (b)(1) of this section, the franchise holder shall withhold
31 and pay to the commission as a privilege tax for the use and benefit of the
32 State of Arkansas one percent (1%) of all moneys wagered on the races on the
33 grounds of the franchise holder's Arkansas race track.

34 (B) The difference between the two percent (2%) rate being
35 withheld and so paid by the franchise holder to the State of Arkansas on
36 wagers on the races described in subdivision (b)(3)(A) of this section under

1 rules and regulations of the commission in effect prior to the enactment of
2 this subdivision (b)(3) and the one percent (1%) rate established in
3 subdivision (b)(3)(A) of this section, shall be withheld by the franchise
4 holder from wagers on such races and set aside by the franchise holder in a
5 separate account to be used only for purses and construction, for debt
6 service on money borrowed by the franchise holder for construction, or for
7 promotions to encourage patronage and tourism, in accordance with the
8 provisions of § 23-110-407(a)(3).

9 (c) No franchise holder shall permit any person under eighteen (18)
10 years of age to be a patron of the pari-mutuel or certificate system of
11 wagering conducted or supervised by it.

12 (d)(1)(A) However, nothing contained in this section shall be
13 construed to permit the pari-mutuel or certificate method of wagering upon
14 any race track unless the track is licensed as provided by this chapter.

15 (B) It is declared to be unlawful for any franchise holder
16 to permit, conduct, or supervise upon any race track any pari-mutuel or
17 certificate method of wagering except in accordance with the provisions of
18 this chapter.

19 (2)(A) There shall be no wagering on the results of any races
20 except under the pari-mutuel or certificate method of wagering as provided
21 for in this section, and then only by the installation and use of equipment
22 approved by the commission.

23 (B) Any franchise holder using or permitting wagering or
24 any person wagering under any other method at a licensed race track shall be
25 guilty of a Class D felony and, ~~upon conviction, shall be punished for each~~
26 ~~offense by a fine of not less than five thousand dollars (\$ 5,000) nor more~~
27 ~~than ten thousand dollars (\$ 10,000) and imprisonment for not less than one~~
28 ~~(1) year nor more than five (5) years.~~

29
30 SECTION 486. Arkansas Code § 23-111-508 is amended to read as follows:
31 23-111-508. Wagering.

32 (a)(1) Any franchise holder conducting a greyhound racing meet may
33 provide places in the race meeting grounds, or enclosure, at which it may
34 conduct and supervise the pari-mutuel or certificate system of wagering by
35 patrons on the races conducted by the franchise holder at the meeting.

36 (2) The pari-mutuel or certificate method of wagering upon races

1 held at the race track, within the race track, and at the racing meet shall
2 not under any circumstances, if conducted under the provisions of this
3 chapter, be held or construed to be unlawful, all other laws or parts of laws
4 of the State of Arkansas to the contrary notwithstanding.

5 (b) No other place or method of wagering shall be used or permitted by
6 the franchise holder, nor shall the pari-mutuel or certificate system of
7 wagering be conducted on any races except races at the race track where the
8 franchise holder holds a current license issued by the Arkansas Racing
9 Commission.

10 (c) No franchise holder shall permit any minor to be a patron of the
11 pari-mutuel or certificate system of wagering conducted or supervised by it.

12 (d)(1)(A) However, nothing contained in this section shall be
13 construed to permit the pari-mutuel or certificate method of wagering upon
14 any race track unless the track is licensed as provided by this chapter.

15 (B) It is declared to be unlawful for any franchise holder
16 to permit, conduct, or supervise any pari-mutuel or certificate method of
17 wagering upon any race track, except in accordance with the provisions of
18 this chapter.

19 (2) There shall be no wagering on the results of any races
20 except under the pari-mutuel or certificate method of wagering, as provided
21 for in this chapter, and then only by the installation and use of equipment
22 approved by the commission.

23 (3) In addition to the pari-mutuel or certificate system of
24 wagering as authorized by this chapter, the commission is authorized and
25 directed to establish and adopt rules and regulations permitting the conduct
26 of pari-mutuel or certificate system of wagering upon racing, either horse or
27 greyhound, shown live or in any other manner approved by the commission by
28 television or otherwise to or from the premises of the franchise holder.

29 (4) Any franchise holder using or permitting wagering or any
30 person wagering under any other method at a licensed race track shall be
31 guilty of a Class D felony and, ~~upon conviction, shall be punished for each~~
32 ~~offense by a fine of not less than five thousand dollars (\$ 5,000) nor more~~
33 ~~than ten thousand dollars (\$ 10,000) and imprisonment for not less than one~~
34 ~~(1) year nor more than five (5) years~~ for each such offense.

35
36 SECTION 487. Arkansas Code § 17-1-103 is amended to read as follows:

1 17-1-103. Registration, certification, and licensing for criminal
2 offenders.

3 (a)(1) It is the policy of the State of Arkansas to encourage and
4 contribute to the rehabilitation of criminal offenders and to assist them in
5 the assumption of the responsibilities of citizenship.

6 (2) The public is best protected when offenders are given the
7 opportunity to secure employment or to engage in a meaningful trade,
8 occupation, or profession.

9 (b)(1)(A) Subject to the provisions of subsection (c) of this section,
10 in determining eligibility under this section, ~~the a~~ board, commission,
11 department, or an agency may take into consideration conviction of certain
12 crimes which have not been annulled, expunged, or pardoned.

13 (B) However, such convictions shall not operate as an
14 automatic bar to registration, certification, or licensing for any trade,
15 profession, or occupation.

16 ~~(e)~~(2) The following criminal records shall not be used,
17 distributed, or disseminated in connection with an application for a
18 registration, license, or certificate:

19 ~~(1)~~(A) Records of arrest not followed by a valid felony
20 conviction by the courts;

21 ~~(2)~~(B) Convictions which have been annulled or expunged or
22 pardoned by the Governor; and

23 ~~(3)~~(C) Misdemeanor convictions, except misdemeanor sex
24 offenses and misdemeanors involving violence.

25 ~~(d)~~(c) The board, commission, department, or agency shall state
26 explicitly in writing the reasons for a decision which prohibits the
27 applicant from practicing the trade, occupation, or profession if the
28 decision is based in whole or in part on conviction of a felony.

29 ~~(e)~~(d) For the purposes of this section, completion of the following
30 shall be deemed prima facie evidence of sufficient rehabilitation:

31 (1) Probation or parole supervision; and

32 (2) A period of five (5) years after final discharge or release
33 from any term of imprisonment in the state penitentiary without any
34 subsequent conviction.

35 ~~(f)~~(e) Any complaints concerning the violation of this section shall
36 be adjudicated in accordance with the procedure set forth in the Arkansas

1 Administrative Procedure Act, § 25-15-201 et seq., for administrative and
2 judicial review.

3 ~~(g)(f)(1)~~ This section shall apply to any board, commission,
4 department, agency, or any other body that deals in licensing or regulating a
5 profession, trade, or occupation in the State of Arkansas.

6 ~~(h)(2)~~ It shall be the duty of the Secretary of State to make
7 this section known to any board, commission, department, or agency affected
8 by this section.

9 ~~(i) This section shall not apply to teacher licensure or~~
10 ~~certification, as these areas of licensure or certification are specifically~~
11 ~~governed by § 6-17-410.~~

12 (g) This section shall not apply to teacher licensure or certification
13 or nursing licensure and certification as governed by §§ 6-17-410 and 17-87-
14 312 respectively.

15

16 SECTION 488. Arkansas Code § 20-33-205 is amended to read as follows:

17 20-33-205. Provisional licenses - Disqualification from employment -
18 Resubmission of applications - Denial or revocation - Penalties.

19 (a) Except as provided in subsection (c) of this section:

20 (1) A licensing agency shall issue a forty-five-day provisional
21 license to a qualified entity whose operator has been found guilty or has
22 pleaded guilty or nolo contendere to any of the offenses listed in subsection
23 (b) of this section;

24 (2) A licensing agency shall issue a determination that a person
25 is disqualified from employment with a qualified entity if the person has
26 been found guilty or pleaded guilty or nolo contendere to any of the offenses
27 listed in subsection (b) of this section; and

28 (3)(A) A qualified entity shall not knowingly employ a person
29 who has pleaded guilty or nolo contendere to, or has been found guilty of,
30 any of the offenses listed in subsection (b) of this section by any court in
31 the State of Arkansas or of any similar offense by a court in another state
32 or of any similar offense by a federal court.

33 (B) Except as provided in subsection (c) of this section:

34 (i) A licensing agency shall issue a forty-five-day
35 provisional license to a qualified entity whose operator has been found
36 guilty of or pleaded guilty or nolo contendere to any of the offenses listed

1 in subsection (b) of this section; and

2 (ii) A licensing agency shall issue a determination
3 that a person is disqualified from employment with a qualified entity if the
4 person has been found guilty of or pleaded guilty or nolo contendere to any
5 of the offenses listed in subsection (b) of this section. A requesting agency
6 shall issue a determination that a person or ElderChoices provider is
7 disqualified from providing care to the elderly or to an individual with a
8 disability, or both, if the person or provider has been found guilty of or
9 pleaded guilty or nolo contendere to any of the offenses listed in subsection
10 (b) of this section.

11 (b)(1) Capital murder, as prohibited in § 5-10-101;

12 (2) Murder in the first degree and second degree, as prohibited
13 in §§ 5-10-102 and 5-10-103;

14 (3) Manslaughter, as prohibited in § 5-10-104;

15 (4) Negligent homicide, as prohibited in § 5-10-105;

16 (5) Kidnapping, as prohibited in § 5-11-102;

17 (6) False imprisonment in the first degree, as prohibited in §
18 5-11-103;

19 (7) Permanent detention or restraint, as prohibited in § 5-11-
20 106;

21 (8) Robbery, as prohibited in § 5-12-102;

22 (9) Aggravated robbery, as prohibited in § 5-12-103;

23 (10) Battery, as prohibited in §§ 5-13-201 – 5-13-203;

24 (11) Aggravated assault, as prohibited in § 5-13-204;

25 (12) Introduction of controlled substance into body of another
26 person, as prohibited in § 5-13-210;

27 (13) Terroristic threatening in the first degree, as prohibited
28 in § 5-13-301;

29 (14) Rape, as prohibited in § 5-14-103;

30 (15) Sexual indecency with a child, as prohibited in § 5-14-110;

31 (16) Sexual assault in the first degree, second degree, third
32 degree, and fourth degree, as prohibited in §§ 5-14-124 – 5-14-127;

33 (17) Incest, as prohibited in § 5-26-202;

34 (18) Offenses against the family, as prohibited in §§ 5-26-303 -
35 5-26-306;

36 (19) Endangering the welfare of incompetent person in the first

- 1 degree, as prohibited in § 5-27-201;
- 2 (20) Endangering the welfare of a minor in the first degree, as
3 prohibited in § 5-27-203;
- 4 (21) Permitting child abuse, as prohibited in § 5-27-221(a)(1)
5 and (3);
- 6 (22) Engaging children in sexually explicit conduct for use in
7 visual or print media, transportation of minors for prohibited sexual
8 conduct, pandering or possessing visual or print medium depicting sexually
9 explicit conduct involving a child, or use of a child or consent to use of a
10 child in a sexual performance by producing, directing, or promoting a sexual
11 performance by a child, as prohibited in §§ 5-27-303 – 5-27-305, 5-27-402,
12 and 5-27-403;
- 13 (23) Felony adult abuse, as prohibited by § 5-28-103;
- 14 (24) Theft of property, as prohibited in § 5-36-103;
- 15 (25) Theft by receiving, as prohibited in § 5-36-106;
- 16 (26) Arson, as prohibited in § 5-38-301;
- 17 (27) Burglary, as prohibited in § 5-39-201;
- 18 (28) Felony violation of the Uniform Controlled Substances Act,
19 § 5-64-101 et seq., as prohibited in § 5-64-401;
- 20 (29) Promotion of prostitution in the first degree, as
21 prohibited in § 5-70-104;
- 22 (30) Stalking, as prohibited in § 5-71-229;
- 23 (31) Criminal attempt, criminal complicity, criminal
24 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
25 5-3-301, and 5-3-401, to commit any of the offenses listed in this
26 subsection;
- 27 (32) Forgery, as prohibited in § 5-37-201;
- 28 (33) Breaking or entering, as prohibited in § 5-39-202;
- 29 (34) Obtaining a controlled substance by fraud, as prohibited in
30 § 5-64-403;
- 31 (35) Computer child pornography, as prohibited in § 5-27-603;
32 and
- 33 (36) Computer exploitation of a child in the first degree, as
34 prohibited in § 5-27-605.
- 35 (c) A qualified entity that is issued a provisional license based on
36 the criminal history of the operator may resubmit the application for

1 licensure with a new operator. If the qualified entity does not resubmit the
2 application within fifteen (15) days of the issuance of the provisional
3 license, then the qualified entity's license shall be immediately denied or
4 revoked.

5 (d)(1) The provisions of this section shall not be waived by the
6 licensing or requesting agency.

7 (2)(A) Except as provided in subdivision (d)(2)(B) of this
8 section, a conviction for an offense listed in subsection (b) of this section
9 shall not disqualify an applicant for employment if the date of conviction of
10 the offense is at least ten (10) years from the date of the application and
11 the individual has no criminal convictions of any type or nature during the
12 ten-year period. To the extent that there is any conflict with § 17-1-103,
13 this section shall be deemed to supersede § 17-1-103.

14 (B) Because of the serious nature of the offenses and the
15 close relationship to the type of work that is to be performed, the following
16 shall result in permanent disqualification of employment:

17 (i) Capital murder, as prohibited in § 5-10-101;

18 (ii) Murder in the first degree and murder in the
19 second degree, as prohibited in §§ 5-10-102 and 5-10-103;

20 (iii) Kidnapping, as prohibited in § 5-11-102;

21 (iv) Rape, as prohibited in § 5-14-103;

22 (v) Sexual assault in the first degree and second
23 degree, as prohibited in §§ 5-14-124 and 5-14-125;

24 (vi) Endangering the welfare of incompetent person
25 in the first degree, as prohibited in § 5-27-201;

26 (vii) Felony adult abuse, as prohibited by § 5-28-
27 103; and

28 (viii) Arson, as prohibited in § 5-38-301.

29 (e)(1) A qualified entity shall not be disqualified from licensure
30 when the operator has been found guilty of or has pleaded guilty or nolo
31 contendere to a misdemeanor if the offense did not involve exploitation of an
32 adult, abuse of a person, neglect of a person, theft, or sexual contact.

33 (2) An applicant, ElderChoices provider, or employee shall not
34 be disqualified from permanent employment or providing care to the elderly or
35 an individual with a disability, or both, when the applicant, provider, or
36 employee has been found guilty of or has pleaded guilty or nolo contendere to

1 a misdemeanor if the offense did not involve exploitation of an adult, abuse
2 of a person, neglect of a person, theft, or sexual contact.

3 (f) If an operator or qualified entity fails or refuses to cooperate
4 in obtaining criminal records checks, such circumstances shall be grounds to
5 deny or revoke the qualified entity's license or other operating authority,
6 provided the process of obtaining criminal records checks shall not delay the
7 process of the application for a license or other operational authority.

8 (g) Any unlicensed qualified entity violating this subchapter shall be
9 guilty of a Class A misdemeanor for each violation.

10 (h) This section shall not apply to teacher licensure or certification
11 or nursing licensure and certification as governed by §§ 6-17-410 and 17-87-
12 312 respectively.

13
14 SECTION 489. Arkansas Code § 16-81-112 is amended to read as follows:

15 16-81-112. Escape of prisoner.

16 (a) If the defendant, after an arrest, escapes or is rescued, the
17 person in whose custody he was may immediately pursue and recapture him in
18 any part of the state.

19 (b)(1) If any person charged with, or convicted, of, ~~treason, murder,~~
20 ~~rape, robbery, burglary, arson, larceny, perjury, counterfeiting, or any~~
21 ~~other~~ a felony within this state breaks prison, escapes, or flees from
22 justice, or absconds or secretes himself, it shall be lawful for the
23 Governor, if he deems it necessary, to offer a reward, not to exceed the sum
24 of ~~one thousand dollars (\$1,000)~~ one hundred thousand dollars (\$100,000), for
25 the apprehending and delivering of the person into the custody of such
26 officer as he may direct.

27 (2) Any person apprehending and delivering the person to the
28 proper officer and producing to the Governor the receipt of the officer for
29 the body of the person shall be entitled to the reward offered by the
30 Governor, and the Governor shall certify the amount of the reward to the
31 Auditor of State, who shall issue his warrant on the State Treasury therefor,
32 to be paid out of any money appropriated for the contingent expenses of the
33 executive department.

34
35 SECTION 490. Arkansas Code § 1-5-107 is amended to read as follows:

36 1-5-107. Confederate Flag Day.

1 ~~(a)~~ The Saturday immediately preceding Easter Sunday of each year is
2 designated as "Confederate Flag Day" in this state.

3 ~~(b)~~ ~~No person, firm, or corporation all display any Confederate flag~~
4 ~~or replica thereof in connection with any advertisement of any commercial~~
5 ~~enterprise, or in any manner for any purpose except to honor the Confederate~~
6 ~~States of America.~~

7 ~~(c)~~ ~~Any person, firm, or corporation violating the provisions of this~~
8 ~~section shall be guilty of a misdemeanor and upon conviction shall be fined~~
9 ~~not less than one hundred dollars (\$100) nor more than one thousand dollars~~
10 ~~(\$1,000).~~

11
12 SECTION 491. Arkansas Code § 5-2-610 is amended to read as follows:

13 5-2-610. Use of physical force by law enforcement officers.

14 (a) A law enforcement officer is justified in using nondeadly physical
15 force, or threatening to use deadly physical force, upon another person when
16 he reasonably believes it necessary:

17 (1) To effect an arrest or to prevent the escape from custody of
18 an arrested person unless the officer knows that the arrest is unlawful; or

19 (2) To defend himself or a third person from what he reasonably
20 believes to be the use or imminent use of physical force while effecting or
21 attempting to effect an arrest or while preventing or attempting to prevent
22 an escape.

23 (b) A law enforcement officer is justified in using deadly physical
24 force upon another person when he reasonably believes that it is necessary:

25 (1) To effect an arrest or to prevent the escape from custody of
26 an arrested person whom he reasonably believes has committed or attempted to
27 commit a felony and is presently armed or dangerous; or

28 (2) To defend himself or a third person from what he reasonably
29 believes to be the use or imminent use of deadly physical force.

30
31 SECTION 492. Arkansas Code § 5-27-602 is amended to read as follows:

32 5-27-602. Distributing, possessing, or viewing matter depicting
33 sexually explicit conduct involving a child.

34 (a) A person commits distributing, possessing, or viewing of matter
35 depicting sexually explicit conduct involving a child if the person:

36 (1) Knowingly receives for the purpose of selling or knowingly

1 sells, procures, manufactures, gives, provides, lends, trades, mails,
2 delivers, transfers, publishes, distributes, circulates, disseminates,
3 presents, exhibits, advertises, offers, or agrees to offer through any means,
4 including the Internet, any photograph, film, videotape, computer program or
5 file, ~~computer-generated image~~, video game, or any other reproduction or
6 reconstruction which depicts a child or incorporates the image of a child
7 engaging in sexually explicit conduct; or

8 (2) Knowingly possesses or views through any means, including on
9 the Internet, any photograph, film, videotape, computer program or file,
10 computer-generated image, video game, or any other reproduction, which
11 depicts a child or incorporates the image of a child engaging in sexually
12 explicit conduct.

13 (b) Distributing, possessing, or viewing of matter depicting sexually
14 explicit conduct involving a child is a:

15 (1) Class C felony for the first offense; and

16 (2) Class B felony for any subsequent offense.

17 (c) It is an affirmative defense to a prosecution under this section
18 that the defendant in good faith reasonably believed that the child depicted
19 in the matter was seventeen (17) years of age or older.

20
21 SECTION 493. Arkansas Code § 5-27-607 is amended to read as follows:

22 5-27-607. Determination of age of child.

23 (a) For purposes of this subchapter, the state must prove beyond a
24 reasonable doubt that the child who is depicted as or presents the appearance
25 of being under the age of seventeen (17) in any photograph, film, videotape,
26 computer program or file, ~~computer-generated image~~, video game, or any other
27 reproduction or reconstruction is under the age of seventeen (17).

28 (b) If it becomes necessary for purposes of this subchapter to
29 determine whether a child depicted engaging in sexually explicit conduct was
30 under seventeen (17) years of age, the court or jury may make this
31 determination by any of the following methods:

32 (1) Personal inspection of the child;

33 (2) Inspection of the photograph, film, videotape, computer
34 program or file, ~~computer-generated image~~, video game, or any other
35 reproduction or reconstruction picture that depicts the child engaging in the
36 sexually explicit conduct;

1 (3) Expert medical testimony based on the appearance of the
2 child engaged in the sexually explicit conduct; or

3 (4) Any other method authorized by law.
4

5 SECTION 494. Arkansas Code § 5-54-129 is amended to read as follows:

6 5-54-129. Search of persons and vehicles entering institutions.

7 It shall be lawful for the superintendent, warden, or jailor or their
8 duly authorized agent to require, as a condition of admission, a reasonable
9 search as permitted by the state and federal constitutions of the person or
10 vehicle of anyone seeking admission to, or to visit in, the Department of
11 Community Correction, reformatories, industrial schools, county penal farms,
12 jails, state institutions, or other places of confinement where prisoners
13 persons are confined.
14

15 SECTION 495. Arkansas Code § 5-60-112 is amended to read as follows:

16 5-60-112. Misconduct on bus - In general.

17 (a) As used in this section, unless the context otherwise requires:

18 (1) "Bus" means any passenger bus or coach or other motor
19 vehicle having a seating capacity of not less than fifteen (15) passengers,
20 operated by a bus transportation company for the purpose of carrying
21 passengers or cargo for hire, but not to include a bus or coach utilized
22 exclusively to transport children to and from schools;

23 (2) "Bus transportation company" or "company" means any person,
24 group of persons, or corporation providing for-hire transport to passengers
25 or cargo by bus upon the highways of this state, but not to include a company
26 utilizing buses transporting children to and from school. These terms shall
27 also include bus transportation facilities owned or operated by local public
28 bodies, municipalities, public corporations, boards, and commissions, except
29 school districts established under the laws of this state;

30 (3) "Charter" means a group of persons who, pursuant to a common
31 purpose and under a single contract, and at a fixed charge for the vehicle in
32 accordance with a bus transportation company's tariff, have acquired the
33 exclusive use of a bus to travel together as a group to a specified
34 destination; and

35 (4) "Passenger" means any person served by the transportation
36 company. This term shall also include persons accompanying or meeting another

1 who is transported by a company and any person shipping or receiving cargo.

2 (b) It is unlawful, while on a bus, for any person:

3 (1) To threaten a breach of the peace ~~or use any obscene,~~
4 ~~profane, or vulgar language;~~

5 (2) To be under the influence of alcohol or unlawfully under the
6 influence of a controlled substance or to ingest or have in his or her
7 possession any controlled substance unless properly prescribed by a physician
8 or medical facility, or to drink intoxicating liquor of any kind in or upon
9 any passenger bus, except a chartered bus; or

10 (3) To fail to obey a reasonable request or order of a bus
11 driver or any authorized company representative.

12 (c) If any person ~~shall violate~~ violates any provision of subsection
13 (b) of this section, the driver of the bus or person in charge may stop it at
14 the place where the offense is committed or at the next regular or convenient
15 stopping place of the bus and require the person to leave the bus.

16 (d) Any person violating any provision of subsection (b) of this
17 section is deemed guilty of a Class C misdemeanor.

18
19 SECTION 496. Arkansas Code § 5-14-122 is amended to read as follows:
20 5-14-122. Bestiality.

21 (a) For purposes of this section "animal" means any nonhuman
22 vertebrate, either dead or alive.

23 (b) A person commits bestiality when he or she performs or submits to
24 any act of sexual gratification with an animal involving the sex organs of
25 the one and the mouth, anus, penis, or vagina of the other.

26 (c) Bestiality is a Class A misdemeanor.
27

28 SECTION 497. Arkansas Code § 5-64-409 is repealed.

29 ~~5-64-409. Breaking or entering to steal controlled substances—Bail.~~
30 ~~It is unlawful for any person to break or enter any establishment~~
31 ~~maintained for the manufacture, storage, distribution, dispensing, or~~
32 ~~administration of controlled substances with intent to steal any controlled~~
33 ~~substance contained therein. When any person is charged with breaking and~~
34 ~~entering an establishment in violation of this subsection, bail for such~~
35 ~~person shall be set at not less than ten thousand dollars (\$10,000).]~~
36

1 SECTION 498. Arkansas Code § 16-85-604 is repealed.

2 ~~16-85-604. Arrest—Bail.~~

3 ~~(a) If the offense is bailable, an endorsement shall be made on the~~
4 ~~bench warrant, substantially as follows:~~

5 ~~"The defendant is to be admitted to bail in the sum of _____ dollars,~~
6 ~~and if he desires to give bail, it may be taken by the sheriff of the county~~
7 ~~in which he is arrested, or the sheriff of (Pulaski) County."~~

8 ~~(b) If the bench warrant is executed by any officer other than a~~
9 ~~sheriff, the officer, at the defendant's request, shall take him before a~~
10 ~~sheriff of the county in which he is arrested, or of the county in which the~~
11 ~~indictment was found, for the purpose of giving bail.~~

12 ~~(c) If the defendant is on bail, and the indictment is for an offense~~
13 ~~not bailable, and he appears in pursuance of the bail bond, he shall be~~
14 ~~forthwith committed to jail. If he does not appear on being required by the~~
15 ~~court, the bond shall be forfeited and a bench warrant issued for his arrest.~~

16
17 SECTION 499. Arkansas Code §§ 16-81-201 and 16-81-202 are repealed.

18 ~~16-81-201. Limitations on construction.~~

19 ~~This subchapter shall not be construed to:~~

20 ~~(1) Permit an officer to stop just any passerby and search him,~~
21 ~~nor allow the search of any person merely because he has a criminal record;~~

22 ~~(2) Permit the stopping and searching of any person found in the~~
23 ~~vicinity of a felony scene merely because he happens to be there;~~

24 ~~(3) Dispense with the need for adequate observation and~~
25 ~~investigation, depending upon all the circumstances, before a stop is made;~~

26 ~~(4) Permit an officer to stop anyone, under this subchapter,~~
27 ~~unless he is prepared to explain with particularity his reasons for stopping~~
28 ~~the person;~~

29 ~~(5) Permit any officer to stop anyone, under this subchapter, unless the~~
30 ~~crime he reasonably suspects is a felony;~~

31 ~~(6) Permit everyone stopped to be searched. Searches are only~~
32 ~~permitted when the officer reasonably suspects he is in danger;~~

33 ~~(7) Impair any existing law permitting an officer to make an~~
34 ~~arrest without an arrest warrant, or a search incident to the arrest.~~

35
36 ~~16-81-202. Definitions.~~

1 ~~For the purposes of this subchapter, unless the context otherwise~~
2 ~~requires:~~

3 ~~(1) "Law enforcement officer" and "officer" mean any law~~
4 ~~enforcement officer authorized to arrest individuals for the commission of a~~
5 ~~felony;~~

6 ~~(2) "Reasonably suspects" means that degree of certainty less~~
7 ~~than the probable cause necessary to justify a lawful arrest but more than a~~
8 ~~mere suspicion, which a reasonably prudent law enforcement officer would have~~
9 ~~under all circumstances before he interferes with a person's liberty in the~~
10 ~~conscientious performance of his duties to prevent, detect, and investigate~~
11 ~~crime and preserve law and order in the community.~~

12
13 SECTION 500. Arkansas Code §§ 16-81-204 – 16-81-209 are repealed.
14 ~~16-81-204. Stop and detain generally.~~

15 ~~(a) A law enforcement officer lawfully present in any place may, in~~
16 ~~the performance of his duties, stop and detain any person whom he reasonably~~
17 ~~suspects is committing, has committed, or is about to commit a felony, if the~~
18 ~~action is reasonably necessary to identify or determine the lawfulness of~~
19 ~~such person's conduct.~~

20 ~~(b) An officer acting under this section may require that person to~~
21 ~~remain in or near the place in the officer's presence for a period of not~~
22 ~~more than fifteen (15) minutes, at the end of which period the person~~
23 ~~detained shall be released without further restraint, or arrested and charged~~
24 ~~with a crime.~~

25 ~~(c) As promptly as is reasonable under the circumstances, a law~~
26 ~~enforcement officer who has detained a person under this section shall advise~~
27 ~~that person of his official identity and inform the person of the reason for~~
28 ~~the detention.~~

29
30 ~~16-81-205. Stop and detain — Use of force.~~

31 ~~A law enforcement officer acting under the authority of § 16-81-204 may~~
32 ~~use such force as may be reasonably necessary under the circumstances to stop~~
33 ~~and detain any person for the purposes authorized by this subchapter.~~

34
35 ~~16-81-206. Stop and detain — Search for weapons.~~

36 ~~(a) A law enforcement officer who has detained a person under § 16-81-~~

1 ~~204 may, if he reasonably suspects that the person is armed and presently~~
2 ~~dangerous to the officer or others, search the outer clothing of the person~~
3 ~~and the immediate surroundings for, and seize, any weapon or other dangerous~~
4 ~~thing which may be used against the officer or others.~~

5 ~~(b) In no event shall that search be more detailed than is reasonably~~
6 ~~necessary to ensure the safety of the officer or others.~~

7
8 ~~16-81-207. Stop and search distinct from right to arrest.~~

9 ~~(a) The right to stop provided in this subchapter in no way changes~~
10 ~~the previously existing authority of an officer to make an arrest without an~~
11 ~~arrest warrant.~~

12 ~~(b) The rights to stop and to search, as defined in this subchapter,~~
13 ~~are separate and distinct from the established right to arrest, as provided~~
14 ~~by existing law, and to make a complete search incident to the arrest.~~

15
16 ~~16-81-208. Civil liability for unlawful stop and search.~~

17 ~~Any officer making a stop and search not in accordance with the laws of~~
18 ~~this state shall be civilly liable for damages suffered by the person who was~~
19 ~~unlawfully stopped and searched.~~

20
21 ~~16-81-209. Detention of material witness to felony.~~

22 ~~Whenever a law enforcement officer has reasonable cause to believe that~~
23 ~~any person found at or near the scene of a felony is a material witness to~~
24 ~~the felony, he may stop that person and, after having identified himself, he~~
25 ~~must advise the person of the purpose of the stopping and may then demand of~~
26 ~~him his name, address, and any information he may have regarding the felony.~~
27 ~~The detention shall in all cases be reasonable and in no event shall the~~
28 ~~detention be in excess of fifteen (15) minutes.~~

29
30 ~~SECTION 501. Arkansas Code § 16-82-202 is repealed.~~

31 ~~16-82-202. Execution.~~

32 ~~(a)(1) The warrant shall be directed to the sheriff of the county or~~
33 ~~to any constable and shall command him to search, in the daytime, the place~~
34 ~~where the property is suspected to be concealed, which place shall be~~
35 ~~designated and the property particularly described, and to bring the property~~
36 ~~before the magistrate issuing the warrant.~~

1 ~~(2) If there is positive proof that any property stolen or~~
2 ~~embezzled is concealed in any particular house or place, the warrant may~~
3 ~~order the searching of the house or place at night.~~

4 ~~(b) Every search warrant shall be executed by a public officer and not~~
5 ~~by any other person.~~

6
7 SECTION 502. Arkansas Code Title 16, Chapter 85, Subchapter 2 is
8 repealed.

9 ~~16-85-201. Proceeding when no warrant issued.~~

10 ~~(a) Where an arrest is made without a warrant, whether by a peace~~
11 ~~officer or private person, the defendant shall be forthwith taken before the~~
12 ~~most convenient magistrate of the county in which the arrest is made, and the~~
13 ~~grounds on which the arrest was made shall be stated to the magistrate.~~

14 ~~(b)(1) If the offense for which the arrest was made is charged to have~~
15 ~~been committed in a different county from that in which the arrest was made,~~
16 ~~and the magistrate believes, from the statements made to him on oath, that~~
17 ~~there are sufficient grounds for an examination, he shall, by his written~~
18 ~~order, commit the defendant to a peace officer, to be conveyed by him before~~
19 ~~a magistrate of the county in which the offense is charged to have been~~
20 ~~committed.~~

21 ~~(2) If the offense is a misdemeanor only, the defendant may give~~
22 ~~bail before the magistrate for appearing before a court having jurisdiction~~
23 ~~to try the offense, on a day to be fixed by the magistrate.~~

24 ~~(3) The magistrate taking bail, as provided in subsection (b) of~~
25 ~~this section, shall transmit by mail the bail bond, to the officer before~~
26 ~~whom, or the clerk of the court in which, the defendant is bound to appear.~~

27 ~~(c)(1) Where the arrest is made in the county in which the offense is~~
28 ~~charged to have been committed, the magistrate before whom the defendant is~~
29 ~~taken, shall forthwith proceed to an examination of the charge.~~

30 ~~(2) If the offense charged is a felony, the magistrate shall~~
31 ~~commit, hold to bail, or discharge the defendant, or, if he has jurisdiction~~
32 ~~to hear and finally try the charge, the magistrate shall proceed to final~~
33 ~~determination and judgment therein.~~

34
35 ~~16-85-202. Authority of magistrate.~~

36 ~~A magistrate of the county in which a public offense has been committed~~

1 ~~is authorized to examine the charge and commit to jail or hold to bail the~~
2 ~~person charged with its commission.~~

3
4 ~~16-85-203.— Procedure generally.~~

5 ~~(a) When a person who has been arrested shall be brought, or in~~
6 ~~pursuance of a bail bond shall come, before a magistrate of the county in~~
7 ~~which the offense is charged to have been committed, the charge shall be~~
8 ~~forthwith examined. Reasonable time, however, must be allowed for procuring~~
9 ~~counsel and the attendance of witnesses.~~

10 ~~(b) The magistrate, before commencing the examination, shall state the~~
11 ~~charge and inquire of the defendant whether he desires the aid of counsel and~~
12 ~~shall allow a reasonable opportunity for procuring it.~~

13
14 ~~16-85-204.— Exclusion of persons from courtroom.~~

15 ~~Upon the request of the defendant, all persons may be excluded from the~~
16 ~~room in which the examination is made except the magistrate, his clerk, the~~
17 ~~peace officer, the prosecutor, the attorney or attorneys representing the~~
18 ~~state, the prisoner, his counsel, and the witnesses under examination.~~

19
20 ~~16-85-205.— Witnesses.~~

21 ~~(a) The magistrate shall issue subpoenas for witnesses either for or~~
22 ~~against the defendant, which shall be executed by a peace officer, and shall~~
23 ~~coerce their attendance by the same process as in the circuit courts.~~

24 ~~(b) In no preliminary examination before any justice of the peace or~~
25 ~~other officer authorized by law to hold the examinations shall the fees of~~
26 ~~more than five (5) witnesses be taxed against any county or the state, unless~~
27 ~~their materiality and importance are first affirmed and certified to, under~~
28 ~~oath, by the attorney at whose instance the additional witnesses are~~
29 ~~subpoenaed.~~

30 ~~(c) For the purpose of procuring the attendance of witnesses, either~~
31 ~~against or for the defendant, or other sufficient reason, the magistrate may~~
32 ~~adjourn the examination from time to time, not, however, exceeding three (3)~~
33 ~~days at a time.~~

34 ~~(d) During the examination, the magistrate may cause the witnesses to~~
35 ~~be kept out of hearing of the witness deposing and also separate from each~~
36 ~~other.~~

1 ~~(c) The magistrate, in the minutes of the examination, shall state the~~
2 ~~name and place of residence of each witness and shall make a general~~
3 ~~statement of the substance of what was proved and file the minutes with the~~
4 ~~proceedings.~~

5
6 ~~16-85-206. Bail during periods of adjournment.~~

7 ~~(a)(1) During the periods of adjournment, the defendant shall be~~
8 ~~committed to jail, or to the custody of a peace officer.~~

9 ~~(A) However, the defendant may give bail, or the~~
10 ~~magistrate may fix a sum equivalent to bail, upon which being deposited with~~
11 ~~the peace officer in attendance, unless he is a policeman, as surety for the~~
12 ~~defendant's appearance at the time or times appointed, he may be released~~
13 ~~from custody during the periods of the adjournment of the examination.~~

14 ~~(B) Magistrates shall have no power to admit to bail in~~
15 ~~such cases, where the charge is for a capital offense, murder, or~~
16 ~~manslaughter.~~

17 ~~(2) An entry shall be made by the magistrate of the deposit, and~~
18 ~~by whom made, on the minutes of the examination.~~

19 ~~(A) If the defendant appears on that day, or on a day to~~
20 ~~which the magistrate may extend the time of his appearance, or dies during~~
21 ~~the adjournment, the money shall be returned by the peace officer to the~~
22 ~~person depositing it or his representatives.~~

23 ~~(B) However, if the defendant fails to appear, the peace~~
24 ~~officer, within ten (10) days after the failure, shall pay over the money to~~
25 ~~the county treasurer of his county.~~

26 ~~(3) The peace officer shall be responsible on his official bond~~
27 ~~for the money deposited as provided in this subsection.~~

28 ~~(b) Where a deposit of money has been made, or bail given, the~~
29 ~~magistrate may, for sufficient cause, extend the time for the appearance of~~
30 ~~the defendant, not exceeding, however, ten (10) days.~~

31 ~~(c) The sum of money to be deposited, as provided in this section~~
32 ~~shall not be less than the full amount in which bail would be required, upon~~
33 ~~the defendant's being held for trial of the charge.~~

34 ~~(d) If the defendant gives bail for his appearance during the~~
35 ~~examination according to subdivision (a)(1) of this section, and fails to~~
36 ~~appear at the time specified or at the time extended, according to subsection~~

1 ~~(b) of this section, the magistrate shall endorse on the bail bond the word~~
2 ~~"forfeited," with his signature thereto, and return the bond to the clerk of~~
3 ~~the circuit court of the county, who shall proceed thereon as directed in §~~
4 ~~16-84-203, and the endorsement shall be sufficient evidence of the forfeiture~~
5 ~~of the bond.~~

6
7 ~~16-85-207. Decision of magistrate.~~

8 ~~(a) When the examination is closed, if the magistrate is of opinion~~
9 ~~that there is not sufficient cause for believing that the defendant has~~
10 ~~committed a public offense, he shall discharge the defendant from custody and~~
11 ~~make an entry thereof on the minutes.~~

12 ~~(b) If, however, the magistrate is of the opinion, from the~~
13 ~~examination, that there are reasonable grounds to believe the defendant~~
14 ~~guilty of the offense charged, he shall be held for trial and committed to~~
15 ~~jail or discharged on bail, if the offense is bailable.~~

16 ~~(1) If upon the trial it shall appear that the defendant is~~
17 ~~guilty of a public offense other than that charged in the warrant, he shall~~
18 ~~be held in custody of the officer and tried for the offense, a reasonable~~
19 ~~opportunity having been given him to obtain his witnesses and prepare his~~
20 ~~defense.~~

21 ~~(2) If the defendant is committed to jail, the magistrate shall~~
22 ~~make out a written order of commitment, signed by him, which shall be~~
23 ~~delivered to the jailer by the peace officer who executed the order of~~
24 ~~commitment.~~

25 ~~(A) If the offense is bailable, the magistrate must fix~~
26 ~~the sum for which bail is to be given and, if sufficient bail is offered,~~
27 ~~take the bail and discharge the defendant.~~

28 ~~(B) If, however, sufficient bail is not offered, the sum~~
29 ~~in which bail is required must be stated in the order of commitment.~~

30 ~~(c) Justices of the peace shall have no power to admit to bail in~~
31 ~~eases of murder, manslaughter, or any capital offense.~~

32
33 ~~16-85-208. Recognizance of trial witnesses.~~

34 ~~(a) On holding the defendant to answer the charge, the magistrate~~
35 ~~shall cause each of the material witnesses on behalf of the state to enter~~
36 ~~into a recognizance before him, to the effect that each witness will attend~~

1 and testify at the court to which the defendant is sent for trial or forfeit
2 a sum not less than one hundred dollars (\$100) to the State of Arkansas.

3 (b) ~~The magistrate shall, in like manner, at the defendant's request,~~
4 ~~cause the material witnesses for the defendant to enter into recognizances in~~
5 ~~the same penalty for appearing and testifying in the court to which he is~~
6 ~~sent for trial. However, it shall be named in the recognizances that they are~~
7 ~~witnesses for the defendant, and the state shall not be liable for their~~
8 ~~attendance and mileage as witnesses.~~

9 (c) ~~In criminal cases tried or examined before a justice of the peace~~
10 ~~where witnesses are recognized to appear before any circuit court, they shall~~
11 ~~all, when practicable, be included in one (1) recognizance, and in no case~~
12 ~~shall the justice receive pay from the county for more than one (1)~~
13 ~~recognizance.~~

14
15 ~~16-85-209. Delivery of minutes, decision of magistrate, bail bond,~~
16 ~~etc., to clerk of trial court.~~

17 ~~The magistrate shall in ten (10) days, and before the commencement of~~
18 ~~the next term of the court to which the defendant is sent for trial, deliver~~
19 ~~to the clerk of the court the warrant, if any, the minutes of the~~
20 ~~examination, including the statements of the witnesses, the instruments of~~
21 ~~writing and other things used in evidence, the decision and action of the~~
22 ~~magistrate, the bail bond, if any, and the recognizance of the witnesses.~~

23
24 ~~16-85-210. Examination of certain witnesses prior to trial.~~

25 (a) ~~If any witness fails to enter into the recognizance required by §~~
26 ~~16-85-208, or if the magistrate, from the proceedings had before him, or from~~
27 ~~testimony on oath, has reasonable grounds to believe that any witness who has~~
28 ~~entered into recognizance may nevertheless not appear and testify at the~~
29 ~~trial of the cause, the witness shall be examined on behalf of the state or~~
30 ~~the defendant on application made for that purpose.~~

31 (1) ~~The examination shall be preceded by notice to the other~~
32 ~~party and shall be by question and answer in the presence of the defendant~~
33 ~~and the prosecuting attorney or his deputy or other attorney for the~~
34 ~~prosecution, with opportunity given for cross-examination, and the testimony~~
35 ~~given shall be transcribed in writing.~~

36 (2) ~~The examination shall be conducted in the same manner as~~

1 ~~other examinations of witnesses before a committing magistrate are required~~
2 ~~by law to be conducted and shall be part of the preliminary examination.~~

3 ~~(3) The magistrate, on rendering judgment that the defendant be~~
4 ~~held to await further proceedings, shall not then dismiss the hearing, but~~
5 ~~shall continue it, and shall be deemed to have continued it whether or not he~~
6 ~~has entered a formal order to that effect and shall retain his jurisdiction~~
7 ~~over the case, for the purpose set out in this section only, until the case~~
8 ~~is acted upon by the grand jury.~~

9 ~~(4) The magistrate, when he releases any defendant on bond to~~
10 ~~await further proceedings, shall require as a condition in the bond, in~~
11 ~~addition to other conditions required by law, that the defendant appear~~
12 ~~before the magistrate for further proceedings in the preliminary examination~~
13 ~~at any time that he may be lawfully summoned so to appear, the bond to be~~
14 ~~forfeited for breach of this condition as for breach of other conditions~~
15 ~~contained therein.~~

16 ~~(5) The magistrate shall reopen the preliminary examination for~~
17 ~~the purpose of hearing and preserving the testimony of witnesses, as provided~~
18 ~~in this section, on motion of either the state or the defendant, at any time~~
19 ~~while he still retains jurisdiction of the case.~~

20 ~~(b) When a witness has been examined as provided in subsection (a) of~~
21 ~~this section and his testimony taken as provided therein, the transcript of~~
22 ~~his testimony shall be admitted in evidence upon the trial of the defendant~~
23 ~~for any offense arising out of the criminal transaction for which he is held,~~
24 ~~either on behalf of the state or of the defendant, if for any reason the~~
25 ~~testimony of the witness cannot be obtained at the trial and the court is~~
26 ~~satisfied that the inability to procure the testimony is not due to the fault~~
27 ~~of the party offering the transcript in evidence.~~

28
29 ~~16-85-211. Time for appearance of witnesses and defendants.~~

30 ~~(a)(1) In any county where the term of circuit court is allowed by law~~
31 ~~to be held for a period of two (2) weeks or longer, the justices of the~~
32 ~~peace, coroners, or other peace officers, in any criminal case tried or~~
33 ~~examined before the officer, where any defendant is committed or any witness~~
34 ~~is recognized to appear before any circuit court, it shall be the duty of the~~
35 ~~officer to commit the defendant or recognize any witness for the first day of~~
36 ~~the term of the court to which the defendant may be sent for trial.~~

1 ~~(A) The officer, having committed any defendant or~~
2 ~~recognized any witness to appear on the second day of any term of the circuit~~
3 ~~court, shall thereafter in all succeeding criminal cases or examining trials~~
4 ~~commit the defendant and recognize the witness to appear on the second,~~
5 ~~third, and fourth days, respectively, of the term of court.~~

6 ~~(B) When the officer shall have committed any defendant or~~
7 ~~recognized any witness to appear on the first, second, third, and fourth days~~
8 ~~of the term of any circuit court as provided in this section, then the~~
9 ~~officer shall thereafter commit the defendant and shall take recognizance of~~
10 ~~the witness in all succeeding criminal cases tried or examined by the officer~~
11 ~~and committed or recognized for the term of court in regular rotation as~~
12 ~~tried, to appear on the second, third, and fourth days of the term of court.~~

13 ~~(2) However, if at the time of committing any defendant or~~
14 ~~recognizing any witness as provided in this section, the circuit court to~~
15 ~~which such defendant or witness is committed or recognized is then in~~
16 ~~session, then the officer shall commit the defendant and recognize the~~
17 ~~witness to appear at the earliest day practicable of the then term of court~~
18 ~~to which the defendant may be committed or to which the witness may be~~
19 ~~recognized.~~

20 ~~(b)(1) The commitment of any defendant or the recognizance of any~~
21 ~~witness provided in this section shall show the day of the term of court on~~
22 ~~which the defendant or witness shall appear, the name of the witness, and his~~
23 ~~post office address and place of residence.~~

24 ~~(2) The commitment or recognizance shall be transmitted by the~~
25 ~~officer trying the case as is now required by law for transcripts, but the~~
26 ~~failure or neglect of any officer to comply with the provisions of this~~
27 ~~subsection shall in no way invalidate the commitment of any defendant or the~~
28 ~~recognizance of any witness.~~

29 ~~(c) Any justice of the peace, coroner, or other peace officer failing~~
30 ~~to comply with the provisions of this section shall be guilty of a~~
31 ~~misdemeanor and, upon conviction, shall be fined not less than ten dollars~~
32 ~~(\$10.00) nor more than one hundred dollars (\$100).~~

33
34 ~~16-85-212. Oral statements.~~

35 ~~(a) Any judicial officer authorized to conduct probable cause hearings~~
36 ~~may conduct the hearings by accepting oral statements under oath which shall~~

1 ~~be recorded by the judicial officer and may be communicated to the judicial~~
2 ~~officer by telephone.~~

3 ~~(b) The oral statement shall be transcribed within seventy two (72)~~
4 ~~hours.~~

5 ~~(c) The recording of the oral statement and the transcribed statement~~
6 ~~shall be certified by the judicial officer receiving it and shall be retained~~
7 ~~as a part of the record of the proceedings.~~

8
9 SECTION 503. Arkansas Code § 16-85-404 is repealed.

10 ~~16-85-404. One offense chargeable—Exceptions.~~

11 ~~(a) An indictment, except in cases mentioned in subsection (b) of this~~
12 ~~section, must charge but one (1) offense, but, if it may have been committed~~
13 ~~in different modes and by different means, the indictment may allege the~~
14 ~~modes and means in the alternative.~~

15 ~~(b) The offenses named in each of the subdivisions of this section may~~
16 ~~be charged in one (1) indictment:~~

17 ~~(1) Robbery, assault with intent to rob, burglary, larceny, and~~
18 ~~knowingly receiving stolen property;~~

19 ~~(2) Larceny, embezzlement, knowingly receiving stolen property,~~
20 ~~and obtaining money or property under false pretense;~~

21 ~~(3) Forgery and uttering forged instruments, or several acts of~~
22 ~~forgery and uttering forged instruments, when the forgery and the uttering of~~
23 ~~the forged instruments grow out of the same matter, business, or transaction,~~
24 ~~or when done in a series of transactions relating to the same matter or~~
25 ~~business;~~

26 ~~(4) Passing, or attempting to pass, counterfeit money or bank~~
27 ~~notes, knowing them to be such, and having in possession counterfeit money or~~
28 ~~bank notes, knowing them to be such, with the intention of circulating them;~~

29 ~~(5) Possessing a still, or still worm; manufacturing a still or~~
30 ~~still worm; making or manufacturing alcoholic, vinous, malt, spirituous,~~
31 ~~ardent, fermented, or intoxicating liquors, or making or fermenting mash,~~
32 ~~wort, or wash for the purpose of making alcoholic or intoxicating liquors;~~
33 ~~the sale of any alcoholic, vinous, malt, spirituous, fermented, or~~
34 ~~intoxicating liquors; and the possession for sale as a beverage, of any~~
35 ~~alcoholic, intoxicating, vinous, malt, spirituous, or fermented liquors; or~~
36 ~~unlawfully transporting or storing the same;~~

1 ~~(6) Several acts of perjury, when they grow out of the same~~
2 ~~matters, business, or transactions, or when committed in a series of~~
3 ~~transactions relating to the same matter or business;~~

4 ~~(7) Larceny of animals, which it is made a felony to steal,~~
5 ~~belonging to different owners, if taken at the same time or place;~~

6 ~~(8) Larceny of several animals, which it is made a felony to~~
7 ~~steal, the property of the same owner, although of different species and~~
8 ~~taken at different times and places;~~

9 ~~(9) All items of money or property embezzled by a public~~
10 ~~official, bank official or employee, or any other person, although such items~~
11 ~~of money or property may have been embezzled at different times and places;~~

12 ~~(10) Several kidnappings when committed at the same time, or in~~
13 ~~the attempt to commit or in furtherance of the commission of another crime,~~
14 ~~or in an effort to escape after the commission of or attempt to commit~~
15 ~~another crime;~~

16 ~~(11) Kidnapping and the crime which the kidnapping is used as a~~
17 ~~means of committing or attempting to commit, or as a means of escape after~~
18 ~~the commission of or attempt to commit the crime;~~

19 ~~(12) The homicide of several persons, when committed by the same~~
20 ~~person or persons, at the same time of or in furtherance of the same criminal~~
21 ~~design.~~

22
23 SECTION 504. Arkansas Code § 16-85-410 is repealed.

24 ~~16-85-410. Second indictment.~~

25 ~~If there shall be, at any time, pending against the same defendant two~~
26 ~~(2) indictments for the same offense, or two (2) indictments for the same~~
27 ~~matter, although charged as different offenses, the indictment first found~~
28 ~~shall be deemed to be suspended by the second indictment and shall be~~
29 ~~quashed.~~

30
31 SECTION 505. Arkansas Code § 16-85-605 is repealed.

32 ~~16-85-605. Summons.~~

33 ~~(a) The summons on an indictment may be substantially in the following~~
34 ~~form:~~

35 ~~"Pulaski Circuit Court — State of Arkansas.~~

36 ~~"To any Sheriff, Coroner, Jailer, Constable, Marshal, or Policeman in~~

1 ~~this State.~~

2 ~~"You are hereby commanded to summon A. B., to appear in the Pulaski~~
3 ~~Circuit Court, on the first day of its next (June) term, to answer an~~
4 ~~indictment for misdemeanor found against him in that court.~~

5 ~~"Given under my hand the _____ day of _____, 19__.~~
6 ~~G. D., Clerk, P. C. C."~~

7 ~~(b) The summons shall be issued and served in the same manner as a~~
8 ~~summons in civil actions.~~

9 ~~(c) The summons shall only be issued on indictments for misdemeanors,~~
10 ~~where the court has not ordered a bench warrant to issue, and may be issued~~
11 ~~without any order by the court.~~

12

13 SECTION 506. Arkansas Code §§ 16-85-703 - 16-85-705 are repealed.

14 ~~16-85-703. Prearrestment—Assignment of Counsel.~~

15 ~~If any person about to be arraigned upon an indictment for a felony is~~
16 ~~without counsel to conduct his defense and shall be unable to employ any, it~~
17 ~~shall be the duty of the court to assign him counsel, at his request, not~~
18 ~~exceeding two (2), who shall have free access to the prisoner at all~~
19 ~~reasonable hours.~~

20

21 ~~16-85-704. Prearrestment—Copy of indictment to accused.~~

22 ~~(a) It shall be the duty of the clerk of the court in which an~~
23 ~~indictment against any person for a capital offense may be pending, whenever~~
24 ~~the defendant shall be in custody, to make out a copy of the indictment and~~
25 ~~cause the indictment to be delivered to the defendant or his counsel at least~~
26 ~~forty-eight (48) hours before he shall be arraigned on the indictment.~~
27 ~~However, the defendant may, at his request, be arraigned and tried at any~~
28 ~~time after the service of the copy.~~

29 ~~(b) Every person indicted for an offense who is in custody or held by~~
30 ~~recognizance to appear and answer the indictment shall, on demand and on the~~
31 ~~payment of the fees allowed by law for it, be entitled to a copy of the~~
32 ~~indictment and all endorsements on it.~~

33

34 ~~16-85-705. Proceeding upon arraignment or call of indictment.~~

35 ~~Upon the arraignment or upon the call of the indictment for trial, if~~
36 ~~there is no arraignment, the defendant must either move to set aside the~~

1 ~~indictment or plead to it.~~

2
3 SECTION 507. Arkansas Code §§ 16-85-707 and 16-85-708 are repealed.
4 ~~16-85-707. Demurrer or plea generally.~~

5 ~~(a) The only pleading on the part of the defendant is a demurrer or a~~
6 ~~plea.~~

7 ~~(b) The demurrer and plea must be put in open court and may be oral,~~
8 ~~but an entry thereof must be made on the record.~~

9 ~~(c) The entry on the record of the demurrer and pleas may be~~
10 ~~substantially in the following forms:~~

11 ~~(1) A demurrer: "The defendant demurs to the indictment";~~

12 ~~(2) A plea of guilty: "The defendant pleads that he is guilty of~~
13 ~~the offense charged in the indictment";~~

14 ~~(3) A plea of nolo contendere: "The defendant will not contest~~
15 ~~the offense charged in the indictment";~~

16 ~~(4) A plea of not guilty: "The defendant pleads that he is not~~
17 ~~guilty of the offense charged in the indictment";~~

18 ~~(5) A plea of former acquittal or conviction: "The defendant~~
19 ~~pleads that he has been acquitted (or convicted, as the case may be), of the~~
20 ~~offense charged in the indictment, by the judgment of _____ court,~~
21 ~~(naming it), rendered on the _____ day of _____ (naming the time)."~~

22 ~~(d) Neither a joinder in demurrer nor a reply to the plea of former~~
23 ~~acquittal or conviction shall be necessary; but the demurrer shall be heard~~
24 ~~and decided, and the plea shall be considered as controverted by denial and~~
25 ~~by any matter of avoidance that may be shown in evidence.~~

26
27 ~~16-85-708. Demurrer.~~

28 ~~(a) A demurrer is proper:~~

29 ~~(1) Where it appears from the indictment that the offense was~~
30 ~~not committed within the local jurisdiction of the court;~~

31 ~~(2) Where it does not substantially conform to the requirements~~
32 ~~of Article II of Chapter II of Title VI of the Criminal Code;~~

33 ~~(3) When more than one (1) offense is charged in the indictment,~~
34 ~~except as provided in § 16-85-404(b);~~

35 ~~(4) Where the facts stated do not constitute a public offense;~~

36 ~~(5) Where the indictment contains matter which is a legal~~

1 ~~defense or a bar to the prosecution.~~

2 ~~(b)(1) If the demurrer is sustained on account of its appearing that~~
3 ~~the offense was not committed within the jurisdiction of the court and it~~
4 ~~does appear that the offense is a felony and was committed in the~~
5 ~~jurisdiction of another court in this state, the court shall make an order~~
6 ~~that the clerk transmit to the clerk of the court having jurisdiction of the~~
7 ~~offense a copy of the indictment and all the original papers, including the~~
8 ~~bail bond if there is any, and, if the defendant is in custody, that he be~~
9 ~~taken and delivered, with a copy of the order, to the jailer of the county to~~
10 ~~which the papers are directed to be transmitted.~~

11 ~~(2) The order, and the proceedings in obedience thereto, shall~~
12 ~~operate in all respects as an order of a magistrate holding a defendant to~~
13 ~~answer the charge according to Title IV of the Criminal Code. The bail, if~~
14 ~~any, shall be liable for the appearance of the defendant to answer an~~
15 ~~indictment in the court to which the papers are transmitted and shall have~~
16 ~~the right of surrendering the defendant to the jailer of that county or to~~
17 ~~that court.~~

18 ~~(3) The same orders and proceedings may be had whenever it~~
19 ~~appears on the trial, by proof, that the offense, being a felony, was~~
20 ~~committed out of the jurisdiction of the court in which the indictment was~~
21 ~~found, but within the jurisdiction of another court of this state.~~

22 ~~(c) Where the indictment improperly charges more than one (1) offense,~~
23 ~~the prosecuting attorney may dismiss one (1) of them, and thereupon the~~
24 ~~demurrer shall not be sustained on that ground.~~

25 ~~(d) If the demurrer is sustained because the indictment contains~~
26 ~~matter which is a legal defense or bar to the indictment, the judgment shall~~
27 ~~be final and the defendant discharged from any further prosecution for the~~
28 ~~offense.~~

29 ~~(e) If the demurrer is sustained on any other grounds than those~~
30 ~~mentioned in subsections (b) (d) of this section, the case may be submitted~~
31 ~~to another grand jury. An order to that effect may be made by the court on~~
32 ~~the record, whereupon the defendant shall be held in custody, or on bail, in~~
33 ~~the manner and for the time as provided in § 16-85-706(b) and (c).~~

34 ~~(f) If the demurrer is overruled, the defendant has a right to plead~~
35 ~~to the indictment. If he fails to do so, final judgment shall be entered~~
36 ~~against him and, if necessary, a jury impaneled to fix the punishment.~~

1
2 SECTION 508. Arkansas Code §§ 16-85-710 and 16-85-711 are repealed.

3 ~~16-85-710. Plea of guilty.~~

4 ~~(a) The plea of guilty can only be put in by the defendant himself in~~
5 ~~open court.~~

6 ~~(b) At any time before judgment, the court may permit the plea of~~
7 ~~guilty to be withdrawn and a plea of not guilty substituted.~~

8
9 ~~16-85-711. Plea of not guilty.~~

10 ~~The plea of not guilty is a denial of every material allegation in the~~
11 ~~indictment; and all matters of fact tending to establish a defense, other~~
12 ~~than a former conviction or acquittal, may be given in evidence under it.~~

13
14 SECTION 509. Arkansas Code § 16-85-712 is repealed.

15 ~~16-85-712. Plea of former acquittal or conviction.~~

16 ~~(a) An acquittal by a judgment on a verdict, or a conviction, shall~~
17 ~~bar another prosecution for the same offense, notwithstanding a defect in~~
18 ~~form or substance in the indictment on which the acquittal or conviction took~~
19 ~~place.~~

20 ~~(b) When a person has been either acquitted or convicted on the merits~~
21 ~~of an offense against the United States or against another state or territory~~
22 ~~thereof, the acquittal or conviction is a bar to prosecution for an offense~~
23 ~~against this state or any governmental subdivision thereof, when the two (2)~~
24 ~~offenses were committed in the same course of conduct and are of the same~~
25 ~~character.~~

26 ~~(1)(A) For purposes of this subsection, two (2) offenses are of~~
27 ~~the same character when the elements which must be proved to obtain a~~
28 ~~conviction of one (1) offense are not substantially different from the~~
29 ~~elements which must be proved to obtain a conviction of the other. In~~
30 ~~determining whether the elements are not substantially different, the court~~
31 ~~shall compare the respective purposes of the laws defining the two (2)~~
32 ~~offenses, as the purposes relate to the particular course of conduct of the~~
33 ~~defendant.~~

34 ~~(B) However, the following differences shall not be~~
35 ~~considered in deciding whether the two (2) offenses are of the same~~
36 ~~character.~~

1 ~~(i) Differences attributable solely to the fact that~~
2 ~~the defendant's conduct affected, in the same manner, the person or property~~
3 ~~of two (2) or more individuals; and~~

4 ~~(ii) Differences consisting of elements necessary~~
5 ~~merely to establish subject matter jurisdiction.~~

6 ~~(2) There is an acquittal on the merits if the prosecution~~
7 ~~resulted in a finding of not guilty by the trier of fact or in a~~
8 ~~determination that there was insufficient evidence to warrant a conviction.~~

9 ~~(3) There is a conviction if the prosecution resulted in a~~
10 ~~judgment of conviction which has not been reversed or vacated, a verdict of~~
11 ~~guilty which has not been set aside and which is capable of supporting a~~
12 ~~judgment, or a plea of guilty accepted by the court.~~

13 ~~(4) The time for pleading the bar to prosecution provided for in~~
14 ~~this subchapter shall be at the regular time for pleading double jeopardy~~
15 ~~under Arkansas Constitution, Article 2, § 8.~~

16 ~~(c)(1) Whenever any party shall have been convicted before any police~~
17 ~~or mayor's court or before any justice of the peace or circuit court, the~~
18 ~~conviction shall be a bar to further prosecution before any police or mayor's~~
19 ~~court or justice of the peace or circuit court for the offense or for any~~
20 ~~misdemeanor embraced in the act committed.~~

21 ~~(2) However, the conviction before any police or mayor's court~~
22 ~~shall not be a bar unless the penalty imposed is at least the minimum penalty~~
23 ~~prescribed by state laws for the same offense or act.~~

24 ~~(d) Where an offense consists of different degrees, a conviction, or~~
25 ~~acquittal by judgment upon a verdict, shall be a bar to another prosecution~~
26 ~~for the offense in any of its degrees.~~

27 ~~(e) The dismissal of the indictment by the court, on demurrer, except~~
28 ~~as provided in § 16-85-708(d), for an objection to its form or substance~~
29 ~~taken on the trial or for variance between the indictment and the proof shall~~
30 ~~not bar another prosecution for the same offense.~~

31
32 SECTION 510. Arkansas Code § 16-91-118 is repealed.

33 ~~16-91-118. Misdemeanors.~~

34 ~~(a) The Supreme Court shall have appellate jurisdiction in~~
35 ~~prosecutions for misdemeanors.~~

36 ~~(b)(1) When the prosecuting attorney prays an appeal, the clerk shall~~

1 ~~immediately make and certify a complete transcript of the record and transmit~~
2 ~~it to the Attorney General or deliver it to the prosecuting attorney for that~~
3 ~~purpose.~~

4 ~~(2) If the Attorney General, on inspecting the record, believes~~
5 ~~it proper to take the appeal, he shall do so by filing the transcript in the~~
6 ~~office of the Clerk of the Supreme Court within sixty (60) days after the~~
7 ~~judgment.~~

8 ~~(c) A judgment on a verdict of acquittal of an offense for which the~~
9 ~~punishment is imprisonment shall not be reversed.~~

10
11 SECTION 511. Arkansas Code § 5-11-107 is repealed.

12 ~~5-11-107. School bus piracy.~~

13 ~~(a) As used in this section, "school bus" means every motor vehicle~~
14 ~~owned by a public school district or a private school or a governmental~~
15 ~~agency and operated for the transportation of children to or from school or~~
16 ~~school-sponsored activities.~~

17 ~~(b)(1) A person commits school bus piracy if, without lawful~~
18 ~~authority, he possesses a deadly weapon as defined in § 5-1-102(4) and seizes~~
19 ~~or exercises control of a school bus and the vehicle is occupied by one (1)~~
20 ~~or more unconsenting persons.~~

21 ~~(2) School bus piracy is a Class A felony.~~

22
23 SECTION 512. Arkansas Code Title 5, Chapter 15, Subchapter 1 is
24 repealed.

25 ~~5-15-101. Penalty.~~

26 ~~(a) Slander shall be a felony.~~

27 ~~(b) Any person who shall be found guilty of the crime of slander~~
28 ~~shall, upon conviction, be imprisoned in the penitentiary at hard labor, for~~
29 ~~a term of not less than six (6) months nor more than three (3) years, or~~
30 ~~fined not less than fifty dollars (\$50.00) nor more than three thousand~~
31 ~~dollars (\$3,000), or both fine and imprisonment may be imposed.~~

32
33 ~~5-15-102. Charge of fornication or adultery.~~

34 ~~If any person shall falsely use, utter, or publish words which, in~~
35 ~~their common acceptance shall amount to charge any person with having been~~
36 ~~guilty of fornication or adultery, such words, so spoken, shall be deemed~~

1 ~~actionable, and he so falsely publishing, speaking, or uttering the same~~
2 ~~shall be deemed guilty of slander.~~

3
4 ~~5-15-103. Charge of false swearing.~~

5 ~~It shall be deemed slander, and shall be actionable, to charge any~~
6 ~~person with swearing falsely or with having sworn falsely or to use, utter,~~
7 ~~or publish words of, to, or concerning any person which in their common~~
8 ~~acceptation amount to such charge, whether the words be spoken in~~
9 ~~conversation of and concerning a judicial proceeding or not.~~

10
11 ~~5-15-104. Proclaiming one as coward for not accepting challenge~~
12 ~~Penalty.~~

13 ~~(a) If any person shall in any newspaper or handbill or other~~
14 ~~advertisement, printed or written, publish or proclaim any other person as a~~
15 ~~coward, or use any other opprobrious or abusive language, for not accepting a~~
16 ~~challenge to fight a duel or for not fighting a duel, the person commits a~~
17 ~~felony and shall be fined in any sum not less than three hundred dollars~~
18 ~~(\$300) nor more than one thousand dollars (\$1,000) or be imprisoned in the~~
19 ~~penitentiary at hard labor for a term of not less than two (2) months nor~~
20 ~~more than one (1) year, or both fine and imprisonment.~~

21 ~~(b) The publisher or printer of any newspaper, handbill, or other~~
22 ~~publication may be summoned as a witness and shall be required to testify~~
23 ~~against the writer of the handbill or publication. If the publisher or~~
24 ~~printer shall refuse to testify in relation to the premises, either before~~
25 ~~the grand or petit jury, or any judicial officer, he shall be deemed guilty~~
26 ~~of a flagrant contempt of court and may be punished by fine and imprisonment~~
27 ~~or either. However, the testimony given by such witness shall in no case be~~
28 ~~used in any prosecution or civil suit against that witness.~~

29
30 ~~5-15-105. Other statements.~~

31 ~~(a) It shall be deemed slander to:~~

32 ~~(1) Falsely use, utter, or publish words which, in their common~~
33 ~~acceptation, shall amount to charge any person with having been guilty of any~~
34 ~~other crime or misdemeanor not mentioned in §§ 5-15-101—5-15-103 and 5-15-~~
35 ~~105—5-15-109;~~

36 ~~(2) Charge any person with having been guilty of any dishonest~~

1 ~~business or official conduct or transaction, the effect of which charge would~~
2 ~~be to injure the credit or business standing; or~~

3 ~~(3) Bring into disrepute the good name or character of such~~
4 ~~person so slandered.~~

5 ~~(b) Words so spoken shall be actionable, and he so falsely publishing,~~
6 ~~speaking, or uttering them shall be deemed guilty of slander and punished~~
7 ~~accordingly.~~

8
9 ~~5-15-106. Civil remedy not affected.~~

10 ~~Nothing in §§ 5-15-101—5-15-103, 5-15-105, and 5-15-107—5-15-109~~
11 ~~shall be construed to prevent any person slandered from bringing and~~
12 ~~maintaining a civil suit for damages against any person committing the~~
13 ~~slander.~~

14
15 ~~5-15-107. Consent to indictment.~~

16 ~~No indictment shall be found under §§ 5-15-101—5-15-103 and 5-15-105~~
17 ~~—5-15-109, except at the instance, or by consent, of the person slandered or~~
18 ~~his legal representative.~~

19
20 ~~5-15-108. Time limit on making presentment.~~

21 ~~All presentments made under §§ 5-15-101—5-15-103 and 5-15-105—5-15-~~
22 ~~109 must be made within twelve (12) months from the date of uttering or~~
23 ~~publishing the slander.~~

24
25 ~~5-15-109. Truth as a defense.~~

26 ~~Under the trial of any person for the crime of slander, he shall be~~
27 ~~allowed to give in evidence the truth of the words charged in the indictment~~
28 ~~to have been spoken by him or her.~~

29
30 SECTION 513. Arkansas Code § 5-28-109 is repealed.

31 ~~5-28-109. Investigative powers of the Attorney General.~~

32 ~~(a) The primary purposes of an investigation are to:~~

33 ~~(1) Protect maltreated adults; and~~

34 ~~(2) Refer for prosecution those persons maltreating any~~
35 ~~endangered or impaired adult.~~

36 ~~(b) The Attorney General shall conduct a thorough investigation that~~

1 may include a medical, psychological, social, vocational, financial, and
2 educational evaluation and review.

3 ~~(c)(1) Upon request, the medical, mental health, or other records~~
4 ~~regarding the maltreated adult maintained by any facility or maintained by~~
5 ~~any person required by this chapter to report suspected maltreatment shall be~~
6 ~~made available to the Attorney General for the purposes of conducting an~~
7 ~~investigation under this chapter.~~

8 ~~(2) Upon request, financial records regarding the subject of the~~
9 ~~investigation maintained by a bank or similar institution shall be made~~
10 ~~available to the Attorney General for the purpose of conducting an~~
11 ~~investigation under this chapter.~~

12 ~~(d)(1) A subpoena requiring the production of documents or the~~
13 ~~attendance of a witness at an interview, trial, or hearing conducted pursuant~~
14 ~~to the jurisdiction of the Medicaid Fraud Control Unit within the office of~~
15 ~~the Attorney General may be served by the Attorney General or any law~~
16 ~~enforcement officer in the State of Arkansas personally, by telephone, or by~~
17 ~~registered or certified mail.~~

18 ~~(2) If service is by registered or certified mail, the return~~
19 ~~shall be accompanied by the return post office receipt of delivery of the~~
20 ~~demand.~~

21 ~~(e)(1) If a facility or person objects to or otherwise fails to comply~~
22 ~~with the Attorney General's request for records, the Attorney General may~~
23 ~~file an action in circuit court for an order to enforce the request.~~

24 ~~(2) Venue for the action to enforce the request shall be in~~
25 ~~Pulaski County.~~

26 ~~(f) The circuit court, upon good cause shown, shall order the facility~~
27 ~~or person who maintains medical, mental health, or other records regarding~~
28 ~~the maltreated adult to tender records to the Attorney General for the~~
29 ~~purpose of conducting an investigation under this chapter.~~

30 ~~(g)(1) Records obtained by the Attorney General under this subchapter~~
31 ~~shall be classified as confidential information and shall not be subject to~~
32 ~~outside review or release by an individual unless the records are used or are~~
33 ~~potentially to be used by any governmental entity in any legal,~~
34 ~~administrative, or judicial proceeding.~~

35 ~~(2) Notwithstanding any other law to the contrary, no person~~
36 ~~shall be subject to any civil or criminal liability for providing access to~~

1 ~~records to the Attorney General or to the prosecuting attorneys.~~

2
3 SECTION 514. Arkansas Code § 5-36-118 is repealed.

4 ~~5-36-118. Embezzlement by officer or employee of certain institutions.~~
5 ~~Any officer or employee who shall appropriate, to his own use and~~
6 ~~purposes, or embezzle any amount of the funds or property belonging to the~~
7 ~~School for the Blind, School for the Deaf, or State Hospital shall be guilty~~
8 ~~of larceny and prosecuted as in cases of larceny.~~

9
10 SECTION 515. Arkansas Code § 5-38-201 is repealed.

11 ~~5-38-201. Fines to State Forestry Fund.~~

12 ~~All fines collected as a result of State Forestry Commission law~~
13 ~~enforcement activities shall go to the State Forestry Fund.~~

14
15 SECTION 516. Arkansas Code § 5-38-213 is repealed.

16 ~~5-38-213. Sowing Johnson grass on land of another.~~

17 ~~(a) It is declared unlawful for any person to sow or scatter Johnson~~
18 ~~grass on any property other than his own.~~

19 ~~(b) Any person violating the provisions of this section shall be~~
20 ~~deemed guilty of a misdemeanor and shall be fined in any sum not less than~~
21 ~~twenty five dollars (\$25.00) and not more than five hundred dollars (\$500).~~

22
23 SECTION 517. Arkansas Code §§ 5-38-215 and 5-38-216 are repealed.

24 ~~5-38-215. Removal or destruction of section or quarter section~~
25 ~~corners.~~

26 ~~(a) Any person who shall by clearing or improving lands or in any~~
27 ~~other manner destroy or remove any section or quarter section corner~~
28 ~~established by United States survey without first having the corner fixed by~~
29 ~~a competent surveyor who shall establish monuments as reference points which~~
30 ~~shall clearly indicate the section or quarter section corner and have his~~
31 ~~notes of this recorded as provided in §§ 14-86-501—14-86-504 for engineers~~
32 ~~and commissioners shall be deemed guilty of a misdemeanor and upon conviction~~
33 ~~thereof shall be fined in any sum not less than fifty dollars (\$50.00) nor~~
34 ~~more than two hundred fifty dollars (\$250).~~

35 ~~(b) Twenty five dollars (\$25.00) of the fine is to be paid to the~~
36 ~~informer.~~

1
2 ~~5-38-216. Knowing and malicious removal or destruction of landmarks.~~
3 ~~Every person who shall knowingly and maliciously remove any monument of~~
4 ~~stone or other durable material, erected for the designation of any corner or~~
5 ~~other point in the boundary of any lot or tract of land, or of the state or~~
6 ~~any legal division of the state, or shall alter or deface the marks upon any~~
7 ~~tree, post, or other monument made for the purpose of designating any point~~
8 ~~in such boundary, or shall cut down or remove any tree upon which any such~~
9 ~~mark shall be made, with the intent to destroy the marks, shall be deemed~~
10 ~~guilty of a misdemeanor and upon conviction shall be fined in any sum not~~
11 ~~less than one hundred dollars (\$100).~~

12
13 SECTION 518. Arkansas Code §§ 5-40-101 and 5-40-102 are repealed.

14 ~~5-40-101. Trespassers on school lands.~~

15 ~~Every trespasser upon the school lands shall be liable to indictment~~
16 ~~and, upon conviction, fined in three (3) times the amount of damages done and~~
17 ~~shall stand committed as in other cases of misdemeanor.~~

18
19 ~~5-40-102. Cutting or removing timber or stone from sixteenth section~~
20 ~~land.~~

21 ~~(a) It shall not be lawful for any person to cut or remove any timber~~
22 ~~or stone off the sixteenth sections of land reserved for the use of schools,~~
23 ~~or from any section or fractional sections selected instead of the sixteenth~~
24 ~~sections.~~

25 ~~(b) If any apprentice shall violate the provisions of this section,~~
26 ~~the master of the apprentice shall be responsible for the act and be~~
27 ~~proceeded against in all respects as though the act had been his own.~~

28 ~~(c) Any person violating the provisions of this section shall, for~~
29 ~~each offense, be adjudged guilty of a misdemeanor and, upon conviction, shall~~
30 ~~be fined in any sum not less than five dollars (\$5.00) nor more than one~~
31 ~~thousand dollars (\$1,000), to be recovered by indictment in the circuit court~~
32 ~~of the county in which the trespass shall or may be committed. This section~~
33 ~~shall not apply to persons who reside on or have improvements on the lands,~~
34 ~~so as to prevent them from residing on or using timber or stone for their use~~
35 ~~or for the use of their improvement; but this shall not be so construed as to~~
36 ~~permit residents or those having improvements on the land to cut and remove~~

1 ~~or to remove any timber or stone off the lands for purposes of speculation or~~
2 ~~sale.~~

3
4 SECTION 519. Arkansas Code § 5-40-104 is repealed.

5 ~~5-40-104. Unlawful possession of state property.~~

6 ~~(a) It shall be unlawful for any person to take possession, keep~~
7 ~~possession, or otherwise occupy or continue to maintain his presence on or in~~
8 ~~the buildings and grounds of any institution owned and operated by the State~~
9 ~~of Arkansas, whether the same be enclosed or unenclosed, from and after he~~
10 ~~shall have been notified by a security officer or other authorized employee~~
11 ~~of the institution to leave.~~

12 ~~(b) Any person violating this section or refusing to comply~~
13 ~~immediately with the notice to quit shall be punished by a fine of not less~~
14 ~~than twenty five dollars (\$25.00) nor more than one hundred dollars (\$100) or~~
15 ~~by imprisonment in the county jail for a period not to exceed six (6) months,~~
16 ~~or by both fine and imprisonment.~~

17
18 SECTION 520. Arkansas Code § 5-54-127 is repealed.

19 ~~5-54-127. Officer failing to execute process.~~

20 ~~If any sheriff or other officer shall willfully and corruptly fail or~~
21 ~~refuse to execute any lawful process whatever, which by law it is his duty to~~
22 ~~execute, requiring the apprehension or confinement of any person charged with~~
23 ~~a criminal offense, whereby such person shall escape, the offending officer~~
24 ~~shall be punished in the same manner as persons aiding or assisting an~~
25 ~~escape.~~

26
27 SECTION 521. Arkansas Code § 5-60-111 is repealed.

28 ~~5-60-111. Communicating false alarm by means of citizen's band radio—~~
29 ~~Penalty.~~

30 ~~(a) A person commits the offense of communicating a false alarm by~~
31 ~~means of a citizen's band radio if he purposely initiates or circulates a~~
32 ~~report of an automobile wreck or other catastrophe by means of the channel of~~
33 ~~a citizen's band radio set aside for emergency reports, knowing that the~~
34 ~~report is false or baseless and knowing that it is likely.~~

35 ~~(1) To cause action of any sort by an official or volunteer~~
36 ~~agency organized to deal with emergencies; or~~

1 ~~(2) To place any person in fear of physical injury to himself or~~
2 ~~another person or of damage to his property or that of another person; or~~

3 ~~(3) To cause total or partial evacuation of any occupiable~~
4 ~~structure, vehicle, or vital public facility.~~

5 ~~(b) Communicating a false alarm by means of a citizen's band radio is a~~
6 ~~Class D felony if physical injury to a person results. Otherwise, it is a~~
7 ~~Class A misdemeanor.~~

8
9 SECTION 522. Arkansas Code § 5-60-113 is repealed.

10 ~~5-60-113. Using abusive language to school bus driver.~~

11 ~~(a) It is unlawful for any person or persons to threaten, curse, or~~
12 ~~use abusive language to a school bus driver in the presence of students in~~
13 ~~this state.~~

14 ~~(b) Any person who violates the provisions of this section shall be~~
15 ~~guilty of a misdemeanor and upon conviction shall be punished by a fine of~~
16 ~~not less than twenty five dollars (\$25.00) nor more than one hundred dollars~~
17 ~~(\$100).~~

18
19 SECTION 523. Arkansas Code § 5-71-225 is repealed.

20 ~~5-71-225. Picketing or demonstrating before a private residence.~~

21 ~~(a) It is declared that:~~

22 ~~(1) The protection and preservation of the home is the keystone~~
23 ~~of democratic government;~~

24 ~~(2) The public health and welfare and good order of the~~
25 ~~community requires that members of the community enjoy in their homes a~~
26 ~~feeling of well-being, tranquility, and privacy, and when absent from their~~
27 ~~homes carry with them the sense of security inherent in the assurance that~~
28 ~~they may return to the enjoyment of their homes;~~

29 ~~(3) The practice of picketing or demonstrating before or about~~
30 ~~residences and dwelling places causes emotional disturbance and distress to~~
31 ~~the occupants;~~

32 ~~(4) This practice has as its object the harassing of the~~
33 ~~occupants and, without resort to such practice, full opportunity exists, and~~
34 ~~under the terms and provisions of this section will continue to exist, for~~
35 ~~the exercise of freedom of speech and other constitutional rights; and~~

36 ~~(5) The provisions of this section are necessary to the public~~

1 ~~interest, to avoid the detrimental results herein set forth.~~

2 ~~(b) It shall be unlawful for any person to engage in demonstrations of~~
3 ~~any type or picketing before or about any residence or dwelling place of any~~
4 ~~individual.~~

5 ~~(c) Any person violating any provision of this section shall, upon~~
6 ~~conviction, be fined not more than two hundred dollars (\$200) or imprisoned~~
7 ~~not more than six (6) months, or both such fine and imprisonment.~~

8
9 SECTION 524. Arkansas Code § 5-72-101 is repealed.

10 ~~5-72-101. Poisoning lake or stream.~~

11 ~~Any person who shall poison any lake or stream of water for the purpose~~
12 ~~of killing fish, stock, or for any other purpose shall be deemed guilty of a~~
13 ~~misdemeanor and upon conviction shall be fined in any sum not less than one~~
14 ~~hundred dollars (\$100) nor more than five hundred dollars (\$500).~~

15
16 SECTION 525. Arkansas Code § 16-22-213 is repealed.

17 ~~16-22-213. Advertising.~~

18 ~~(a) No attorney shall use the printed media or broadcast media, cable~~
19 ~~television, or any other medium to directly solicit clients or encourage~~
20 ~~litigation in this state. Attorneys may utilize the media and all other media~~
21 ~~for advertising their areas of practice or expertise, fees, addresses,~~
22 ~~telephone numbers, and as otherwise permitted by the Arkansas Supreme Court.~~

23 ~~(b) Violations of this section shall constitute Class A misdemeanors.~~

24
25 SECTION 526. Arkansas Code § 16-85-102 is repealed.

26 ~~16-85-102. Corporal or physical punishment prohibited.~~

27 ~~(a) Any officer or other person having charge or supervision of any~~
28 ~~prisoner in the state who administers, or permits any other person or persons~~
29 ~~under supervision to administer, any corporal or physical punishment to the~~
30 ~~prisoner shall be deemed guilty of a misdemeanor and shall be fined in any~~
31 ~~sum not less than one hundred dollars (\$100) nor more than five hundred~~
32 ~~dollars (\$500) and may be confined to prison for not more than ninety (90)~~
33 ~~days.~~

34 ~~(b) In the event a prisoner becomes maimed or permanently or fatally~~
35 ~~injured, then the punishment shall constitute a felony in keeping with the~~
36 ~~degree of injury inflicted and prosecuted in such manner as other felonies of~~

1 ~~a similar class are now prosecuted.~~

2
3 SECTION 527. Arkansas Code § 17-95-205 is repealed.

4 ~~17-95-205. Itinerant vendors.~~

5 ~~Any itinerant vendor of any drug, nostrum, ointment, or application of~~
6 ~~any kind intended for the treatment of disease or injury who by writing,~~
7 ~~print, or other methods may profess to cure or treat diseases or deformity by~~
8 ~~any drug, nostrum, manipulation, or other expedient, in this state shall be~~
9 ~~deemed to be in violation of this law and punished as provided.~~

10
11 SECTION 528. Arkansas Code § 20-48-102 is repealed.

12 ~~20-48-102. Abuse, ridicule, and teasing prohibited.~~

13 ~~(a) It shall be unlawful for any person to willfully tease, ridicule,~~
14 ~~or abuse any mentally deficient or mentally retarded person declared to be~~
15 ~~such by a court of competent jurisdiction, or who, in the judgment of two (2)~~
16 ~~regularly licensed physicians, may be found to be such.~~

17 ~~(b) Any person violating the provisions of this section shall be~~
18 ~~guilty of a misdemeanor and upon conviction shall be punished by a fine in a~~
19 ~~sum not to exceed one hundred dollars (\$100) or by six (6) months²~~
20 ~~imprisonment, or both.~~

21
22 SECTION 529. Arkansas Code § 5-36-119 is repealed.

23 ~~5-36-119. Construction of Acts 1997, No. 516.~~

24 ~~Nothing in this section, § 5-36-103, § 5-36-105, § 5-36-106, or § 5-37-~~
25 ~~207 is intended to prevent a prosecutor from seeking a Class B felony~~
26 ~~conviction under § 5-36-103(b) if the value of property stolen with a credit~~
27 ~~card or account number exceeds two thousand five hundred dollars (\$2,500).~~

28
29 SECTION 530. Arkansas Code § 5-39-402 is repealed.

30 ~~5-39-402. Penalty.~~

31 ~~A person who violates the provisions of this subchapter is guilty of a~~
32 ~~Class D felony.~~

33
34 SECTION 531. Arkansas Code §§ 5-52-102 and 5-52-103 are repealed.

35 ~~5-52-102. Unlawful compensation for past official action.~~

36 ~~(a) A person commits the offense of unlawful compensation for past~~

1 ~~official action if he:~~

2 ~~(1) Solicits, accepts, or agrees to accept any benefit as~~
3 ~~compensation for having, as a public servant, given a decision, opinion,~~
4 ~~recommendation, or vote favorable to another or for having otherwise~~
5 ~~exercised his discretion in favor of another; or~~

6 ~~(2) Offers, confers, or agrees to confer any benefit upon a~~
7 ~~public servant, the receipt of which is prohibited by this section.~~

8 ~~(b) It is not a defense to a prosecution under this section that the~~
9 ~~decision, opinion, recommendation, vote, or use of discretion, except for the~~
10 ~~benefit, was otherwise proper.~~

11 ~~(c) Unlawful compensation for past official action is a Class A~~
12 ~~misdemeanor.~~

13
14 ~~5-52-103. Public servant bribery.~~

15 ~~(a) A person commits public servant bribery if:~~

16 ~~(1) He offers, confers, or agrees to confer any benefit upon a~~
17 ~~public servant as consideration for the recipient's decision, opinion,~~
18 ~~recommendation, vote, or other exercise of discretion as a public servant; or~~

19 ~~(2) He solicits, accepts, or agrees to accept any benefit, the~~
20 ~~conferring of which is prohibited by this section.~~

21 ~~(b) Public servant bribery is a Class D felony.~~

22
23 SECTION 532. Arkansas Code § 5-54-114 is repealed.

24 ~~5-54-114. Permitting escape in the second degree.~~

25 ~~(a) A public servant responsible for supervision of persons detained~~
26 ~~in correctional facilities or in custody commits the offense of permitting~~
27 ~~escape in the second degree if he recklessly permits a person so detained to~~
28 ~~escape.~~

29 ~~(b) Permitting escape in the second degree is a Class A misdemeanor.~~

30
31 SECTION 533. Arkansas Code § 2-38-201 is repealed.

32 ~~2-38-201. Penalty for running at large.~~

33 ~~(a)(1) If any seed horse or any unaltered mule or jack, over the age~~
34 ~~of two (2) years, is found running at large, the owner shall be fined three~~
35 ~~dollars (\$3.00) for the first offense and not exceeding ten dollars (\$10.00)~~
36 ~~for every subsequent offense, to be recovered by civil action in the name of~~

1 any person who shall sue for the fine, one half (1/2) to his own use and the
2 other to the county's.

3 (2) ~~The action may be prosecuted before any justice of the peace
4 of the county where the offense is committed.~~

5 (b) ~~The owner shall also be liable for all damages that may be
6 sustained by the running at large of any seed horse, jack, or mule, to be
7 recovered by a civil action before any court having jurisdiction thereof.~~

8
9 SECTION 534. Arkansas Code § 4-70-101 is repealed.

10 ~~4-70-101. Right to select customers—Penalty for customer's failure
11 to comply.~~

12 (a) ~~Every person, firm, or corporation engaged in any public business,
13 trade, or profession of any kind whatsoever in the State of Arkansas,
14 including, but not restricted to, hotels, motels, tourist courts, lodging
15 houses, restaurants, dining room or lunch counters, barber shops, beauty
16 parlors, theaters, moving picture shows, or other places of entertainment and
17 amusement, including public parks and swimming pools, and stores of any kind
18 wherein merchandise is offered for sale, is authorized and empowered to
19 choose or select the person or persons he or she or it desires to do business
20 with. Further, such persons, firms, or corporations are authorized and
21 empowered to refuse to sell to, wait upon, or serve any person that the
22 owner, manager, or employee of the public place of business does not desire
23 to sell to, wait upon, or serve. However, the provisions of this section
24 shall not apply to public utility corporations or associations engaged in the
25 business of selling electricity, natural gas, or water to the general public
26 or furnishing telephone service to the public.~~

27 (b) ~~Any public place of business may display, if it so desires, a sign
28 posted in the place of business serving notice upon the general public that
29 "the management reserves the right to refuse to sell to, wait upon, or serve
30 any person". The display of such a sign shall not be a prerequisite to
31 exercising the authority conferred by this section.~~

32 (c) ~~Any person who enters a public place of business in this state, or
33 upon the premises thereof, and is requested or ordered to leave the place of
34 business by the owner, manager, or any employee and, after having been so
35 requested or ordered to leave, refuses to do so, shall be guilty of a
36 trespass and upon conviction shall be fined not more than five hundred~~

1 ~~dollars (\$500) or imprisoned in jail not more than six (6) months, or~~
2 ~~punished by both fine and imprisonment.~~

3
4 SECTION 535. Arkansas Code § 5-1-125 is repealed.

5 ~~5-1-125. Right of action not merged in felony.~~

6 ~~In no case shall the right of action of any party injured by the~~
7 ~~commission of a felony be deemed or adjudged to be merged in such felony, but~~
8 ~~damages sustained thereby may be recovered in an action brought for that~~
9 ~~purpose.~~

10
11 SECTION 536. Arkansas Code § 5-27-223 is repealed.

12 ~~5-27-223. Permitting minors to play in saloons.~~

13 ~~(a) It shall be unlawful for any owner or keeper of any dramshop or~~
14 ~~saloon or any employee of such owner or keeper to permit minors to play in~~
15 ~~such dramshop or saloon, or any apartment thereof, at any game of cards,~~
16 ~~billiards, pool, or any other game known by any other name or without any~~
17 ~~name, for a bet or wager on such game, or for amusement without any bet or~~
18 ~~wager.~~

19 ~~(b) Any person violating the provisions of subsection (a) of this~~
20 ~~section shall be deemed guilty of a misdemeanor and shall, on conviction, be~~
21 ~~finned in any sum not less than twenty dollars (\$20.00) nor more than fifty~~
22 ~~dollars (\$50.00).~~

23
24 SECTION 537. Arkansas Code § 5-27-224 is repealed.

25 ~~5-27-224. Permitting minors to frequent and play in poolrooms.~~

26 ~~(a) It shall be unlawful for the owner or keeper of any poolroom or~~
27 ~~pool hall or pool parlor or any employee of such owner or keeper to permit~~
28 ~~any person or persons under the age of eighteen (18) years to play pool,~~
29 ~~billiards, or any other game, or frequent or congregate in such poolroom or~~
30 ~~pool parlor or pool hall, or any department thereof.~~

31 ~~(b) Any person violating the provisions of subsection (a) of this~~
32 ~~section shall be deemed guilty of a misdemeanor and shall, on conviction, be~~
33 ~~finned in any sum not less than ten dollars (\$10.00) nor more than one hundred~~
34 ~~dollars (\$100).~~

35
36 SECTION 538. Arkansas Code § 5-27-225 is repealed.

1 ~~5-27-225. Permission for certain minors to participate where both~~
2 ~~bowling and pool are played.~~

3 ~~A minor who is fifteen (15) years of age or older and who shows written~~
4 ~~consent of his parent or guardian may be permitted to enter any place of~~
5 ~~recreation in this state in which both bowling and pool or billiards are~~
6 ~~played and may participate in games of bowling or pool or billiards in such~~
7 ~~place of recreation, until such time as the consent of the parent or guardian~~
8 ~~is revoked.~~

9
10 SECTION 539. Arkansas Code § 5-27-226 is repealed.

11 ~~5-27-226. Distinguishing family recreation centers from poolrooms.~~

12 ~~(a) For the purposes of this section, the term "family recreation~~
13 ~~center" shall mean a place of entertainment consisting of various types of~~
14 ~~entertainment, including pocket billiards, snooker, miniature billiards, ping~~
15 ~~pong or table tennis, shuffle board, and other forms of wholesome~~
16 ~~entertainment.~~

17 ~~(b) No family recreation center shall sell or serve on its premises~~
18 ~~any type of intoxicating beverage or knowingly allow any type of intoxicating~~
19 ~~beverage to be consumed or served, nor shall any family recreation center~~
20 ~~knowingly allow any gambling or gambling devices upon the premises.~~

21 ~~(c) No family recreation center shall have on its premises any type of~~
22 ~~coin-operated amusement machine or similar device of like nature unless such~~
23 ~~machine is licensed by the state, and its operation is legal under state law.~~

24 ~~(d) All family recreation centers shall be well lighted and have~~
25 ~~sufficient front glass to allow any passing person to observe activities~~
26 ~~conducted within.~~

27 ~~(e) No family recreation center shall be operated between the hours of~~
28 ~~12:00 midnight and 8:00 a.m.~~

29 ~~(f) A family recreation center is distinguished from a poolroom, pool~~
30 ~~hall, pool parlor, or billiard room under existing laws enacted by the~~
31 ~~General Assembly of the State of Arkansas.~~

32
33 SECTION 540. Arkansas Code § 5-36-117 is repealed.

34 ~~5-36-117. Possession of more than 10 pounds of mercury without~~
35 ~~evidence of title.~~

36 ~~(a) It shall be unlawful for any person to have or possess in excess~~

1 of ten pounds (10 lbs.) of mercury unless the person also has in his
2 possession or can produce without unreasonable delay a bill of sale or other
3 written evidence of title to the mercury.

4 (b) ~~Any person violating the provisions of this section shall be~~
5 ~~guilty of a Class A misdemeanor and upon conviction shall be subject to a~~
6 ~~fine of not less than five hundred dollars (\$ 500) nor more than one thousand~~
7 ~~dollars (\$ 1,000) or imprisonment for not less than thirty (30) days nor more~~
8 ~~than one (1) year, or both fine and imprisonment.~~

9
10 SECTION 541. Arkansas Code § 5-37-523 is repealed.

11 ~~5-37-523. Packaging of strawberries.~~

12 (a) ~~It shall be unlawful for any person to:~~

13 (1) ~~Sell or offer for sale to any consumer in this state any~~
14 ~~strawberries in which fifteen percent (15%) or more of such strawberries in~~
15 ~~any container shall be faulty to the extent of rendering the same unfit or~~
16 ~~undesirable for human consumption;~~

17 (2) ~~Sell or offer for sale in this state any strawberries packed~~
18 ~~in closed packages in which the label or exposed surface gives a false~~
19 ~~representation of the contents of the packages. It shall be considered a~~
20 ~~false representation if the exposed surface does not reasonably represent the~~
21 ~~size, quality, and varietal characteristics of the remaining portions of the~~
22 ~~package in which the strawberries are contained.~~

23 (b) ~~Any person violating any provisions of this section shall be~~
24 ~~guilty of a misdemeanor. The State Plant Board is empowered to make~~
25 ~~inspections of strawberries sold or offered for sale in this state, and the~~
26 ~~State Plant Board is empowered to confiscate and destroy strawberries offered~~
27 ~~for sale in violation of this section unless the berries are immediately~~
28 ~~repacked under supervision to conform to this section.~~

29
30 SECTION 542. Arkansas Code § 5-53-130 is repealed.

31 ~~5-53-130. Perjury—Indictments.~~

32 ~~In indictments for perjury, it shall be sufficient to set forth the~~
33 ~~substance of the offense charged, and by what court, or before whom the oath~~
34 ~~or affirmation was taken, averring such court or person to have competent~~
35 ~~authority to administer the same, together with the proper averments to~~
36 ~~falsify the matter wherein the perjury is charged or assigned, without~~

1 ~~setting forth any part of the record, proceeding, or process, either in law~~
2 ~~or equity, or any commission or authority of the court or person before whom~~
3 ~~the perjury was committed, or the form of the oath or affirmation or the~~
4 ~~manner of administering it.~~

5
6 SECTION 543. Arkansas Code § 5-60-110 is repealed.

7 ~~5-60-110. Relinquishing party line for emergency calls—Notice in~~
8 ~~telephone directory.~~

9 ~~(a) Any person shall be guilty of a misdemeanor who shall:~~

10 ~~(1) Willfully refuse to immediately relinquish a party line when~~
11 ~~informed that the line is needed for an emergency call to a fire department~~
12 ~~or police department or for medical aid or ambulance service; or~~

13 ~~(2) Secure the use of a party line by falsely stating that the~~
14 ~~line is needed for an emergency call.~~

15 ~~(b) As used in this section, unless the context otherwise requires:~~

16 ~~(1) "Party line" means a subscribers' line telephone circuit,~~
17 ~~consisting of two (2) or more main telephone stations connected therewith,~~
18 ~~each station with a distinctive ring or telephone number;~~

19 ~~(2) "Emergency" means a situation in which property or human~~
20 ~~life is in jeopardy and the prompt summoning of aid is essential.~~

21 ~~(c)(1) Every telephone directory distributed to the members of the~~
22 ~~general public in this state or in any portion thereof which lists the~~
23 ~~calling numbers of telephones of any telephone exchange located in this state~~
24 ~~shall contain a notice which explains the offense provided for in this~~
25 ~~section, this notice to be preceded by the word "warning". The provisions of~~
26 ~~this section shall not apply to those directories distributed solely for~~
27 ~~business advertising purposes, commonly known as "classified directories", or~~
28 ~~to any telephone directory heretofore distributed to the general public.~~

29 ~~(2) Any person, firm, or corporation providing telephone~~
30 ~~service, which distributes or causes to be distributed in this state copies~~
31 ~~of a telephone directory which is subject to the provisions of this section~~
32 ~~and which does not contain the notice herein provided for, shall be guilty of~~
33 ~~a misdemeanor.~~

34
35 SECTION 544. Arkansas Code §§ 5-60-117 – 5-60-119 is repealed.

36 ~~5-60-117. Endurance contests.~~

1 ~~(a) It shall be unlawful for any person, organization, firm, or~~
2 ~~corporation to conduct, promote, participate in, or cause to be conducted~~
3 ~~within the State of Arkansas any endurance contests of a similar nature to~~
4 ~~those set forth in the preamble hereto, wherein human beings are contestants~~
5 ~~therein, which contests last for a longer aggregate period than twelve (12)~~
6 ~~hours.~~

7 ~~(b) Any person who shall conduct, participate in, or promote any such~~
8 ~~endurance contests within the State of Arkansas in violation of subsection~~
9 ~~(a) of this section shall be guilty of a misdemeanor and upon conviction~~
10 ~~shall be fined in any sum not less than one hundred dollars (\$100) nor more~~
11 ~~than one thousand dollars (\$1,000), and each violation in any one (1) day~~
12 ~~shall constitute a separate offense.~~

13
14 ~~5-60-118. X ray shoe fitting equipment.~~

15 ~~(a) No shoe fitting device or shoe fitting machine which uses fluoro-~~
16 ~~scopic, X ray, or radiation principles shall be operated or maintained in~~
17 ~~this state.~~

18 ~~(b) Any person violating the provisions of this section shall be~~
19 ~~guilty of a misdemeanor and upon conviction shall be punished by a fine of~~
20 ~~not less than fifty dollars (\$50.00) and not more than five hundred dollars~~
21 ~~(\$500), and each day that this violation shall continue shall constitute a~~
22 ~~separate offense.~~

23
24 ~~5-60-119. Motion pictures shown on Sunday.~~

25 ~~It shall be lawful for motion picture shows that charge admission to~~
26 ~~operate and conduct their business on Sunday.~~

27
28 SECTION 545. Arkansas Code § 5-63-203 is repealed.

29 ~~5-63-203. Record of bicycle sales.~~

30 ~~(a) Any person who sells a bicycle in this state shall make and~~
31 ~~preserve a record of the name and address of the person to whom such bicycle~~
32 ~~was sold, the date of the sale, and the serial number of such bicycle or~~
33 ~~bicycles.~~

34 ~~(b) For the purposes of this section, the word "person" shall mean one~~
35 ~~(1) or more individuals, a company, a corporation, a partnership, or any~~
36 ~~association.~~

1 ~~(c) Any person violating the provisions of this section shall be~~
2 ~~guilty of a misdemeanor and upon conviction shall be fined in any sum not~~
3 ~~less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).~~

4
5 SECTION 546. Arkansas Code § 5-72-111 is repealed.

6 ~~5-72-111. Making cutoffs on the Mississippi River.~~

7 ~~(a) If any person shall make, or commence to make, or shall aid or~~
8 ~~assist in making or commencing to make, any cutoff upon or near the~~
9 ~~Mississippi River in this state across or partly across any point of land or~~
10 ~~elsewhere, or shall make or commence to make, or shall aid or assist in~~
11 ~~making or commencing to make any ditch or trench, or other excavation, or~~
12 ~~work whatever, near or upon the river in this state, or keep the same open,~~
13 ~~if now made, whereby the course of the river may be extended or changed, or~~
14 ~~intended to be changed, directed, or turned, or any point of land cut off,~~
15 ~~such person so offending shall be deemed guilty of a felony, and upon~~
16 ~~conviction, shall be punished by a fine, in any sum not less than five~~
17 ~~hundred dollars (\$500) nor more than ten thousand dollars (\$10,000) and be~~
18 ~~imprisoned in the penitentiary not less than one (1) nor more than three (3)~~
19 ~~years.~~

20 ~~(b) In order to prevent the commission of such offense, it is made the~~
21 ~~duty of the judges of the circuit court of the respective counties in this~~
22 ~~state, on the Mississippi River, in the exercise of equity jurisdiction, upon~~
23 ~~the petition of any citizen interested, to enjoin the commencement or~~
24 ~~prosecution of any work, in violation of the subsection (a) of this section,~~
25 ~~the petition having been first verified by the affidavit of the person making~~
26 ~~the same, and upon giving bond for costs. An unlimited number of citizens may~~
27 ~~choose to unite in the petition and shall proceed as a suit upon this~~
28 ~~petition in behalf of this state.~~

29
30 SECTION 547. Arkansas Code § 5-73-123 is repealed.

31 ~~5-73-123. Disposition of metal knuckles or canes containing weapons.~~

32 ~~(a) Any person who shall sell, barter, or exchange, or otherwise~~
33 ~~dispose of, or in any manner furnish to any person any dirk or a sword or a~~
34 ~~spear in a cane or brass or metal knuckles shall be guilty of a misdemeanor.~~

35 ~~(b) Any person convicted of a violation of any of the provisions of~~
36 ~~this section shall be punishable by a fine of not less than fifty dollars~~

1 ~~(\$50.00) nor more than two hundred dollars (\$200) or by imprisonment in the~~
2 ~~county jail for not less than thirty (30) days nor more than three (3)~~
3 ~~months, or by both fine and imprisonment.~~

4 ~~(c) Any justice of the peace in this state, who, from his own~~
5 ~~knowledge or from legal information, knows, or has reasonable grounds to~~
6 ~~believe, any person guilty of a violation of the provisions of this section,~~
7 ~~and shall fail or refuse to proceed against that person, shall be deemed~~
8 ~~guilty of a nonfeasance in office, and upon conviction, shall be punished by~~
9 ~~the same fines and penalties provided in subsection (b) of this section and~~
10 ~~shall be removed from office.~~

11 ~~(d) Any officer in this state, whose duty it is to make arrests, who~~
12 ~~may have personal knowledge of any person carrying arms contrary to the~~
13 ~~provisions of this section, and shall fail or refuse to arrest that person~~
14 ~~and bring him to trial, shall be punished as provided in subsection (b) of~~
15 ~~this section.~~

16 ~~(e) All persons violating any of the provisions of this section may be~~
17 ~~prosecuted in any of the courts of this state having jurisdiction to try the~~
18 ~~same.~~

19
20 SECTION 548. Arkansas Code Title 5, Chapter 64, Subchapter 6 is
21 repealed.

22 ~~5-64-601. Prior criminal acts—Prior forfeitures—Pending~~
23 ~~litigation.~~

24 ~~(a) Prosecution for any violation of law occurring prior to April 7,~~
25 ~~1971, is not affected or abated by subchapters 1-6 of this chapter. If the~~
26 ~~offense being prosecuted is similar to one set out in §§ 5-64-401—5-64-408,~~
27 ~~then the penalties under §§ 5-64-401—5-64-408 apply if they are less than~~
28 ~~those under prior law.~~

29 ~~(b) Civil seizures or forfeitures and injunctive proceedings commenced~~
30 ~~prior to April 7, 1971, are not affected by this chapter.~~

31 ~~(c) All administrative proceedings pending under prior laws which are~~
32 ~~superseded by this chapter shall be continued and brought to a final~~
33 ~~determination in accord with the laws and rules in effect prior to April 7,~~
34 ~~1971. Any substance controlled under prior law, which is not listed within~~
35 ~~Schedules I through V, is automatically controlled without further~~
36 ~~proceedings and shall be listed in the appropriate schedule.~~

1 ~~(d) This chapter applies to violations of law, seizures and~~
2 ~~forfeiture, injunctive proceedings, administrative proceedings, and~~
3 ~~investigations which occur following April 7, 1971.~~

4
5 ~~5-64-602. Effectiveness of prior rules.~~

6 ~~Any orders and rules promulgated under any law affected by subchapters~~
7 ~~1-6 of this chapter and in effect on April 7, 1971, and not in conflict with~~
8 ~~it continue in effect until modified, superseded, or repealed.~~

9
10 ~~5-64-603. Uniformity of application and construction.~~

11 ~~Subchapters 1-6 of this chapter shall be so applied and construed as to~~
12 ~~effectuate its general purpose to make uniform the law with respect to the~~
13 ~~subject of subchapters 1-6 of this chapter among those states which enact it.~~

14
15 ~~5-64-604. Title.~~

16 ~~Subchapters 1-6 of this chapter may be cited as the "Uniform Controlled~~
17 ~~Substances Act."~~

18
19 ~~5-64-605. Severability.~~

20 ~~If any provision of subchapters 1-6 of this chapter or the application~~
21 ~~thereof to any person or circumstance is held invalid, such invalidity does~~
22 ~~not affect other provisions or applications of subchapters 1-6 of this~~
23 ~~chapter which can be given effect without the invalid provision or~~
24 ~~application, and to this end the provisions of subchapters 1-6 of this~~
25 ~~chapter are severable.~~

26
27 ~~5-64-606. Repealer.~~

28 ~~All laws and parts of laws in conflict herewith are hereby repealed.~~

29
30 ~~5-64-607. Emergency.~~

31 ~~It is found and determined by the General Assembly that there is an~~
32 ~~increasing problem of drug abuse in the State of Arkansas and that in order~~
33 ~~to protect the public health and safety immediate steps must be taken to~~
34 ~~enact a comprehensive and uniform narcotics and controlled drugs act and the~~
35 ~~immediate passage of subchapters 1-6 of this chapter is necessary to~~
36 ~~accomplish this purpose; therefor, an emergency is hereby declared to exist~~

1 ~~and subchapters 1-6 of this chapter being necessary for the preservation of~~
2 ~~the public peace, health, and safety shall be in full force from and after~~
3 ~~its passage and approval.~~

4
5 ~~5-64-608. Powers of State Board of Pharmacy—Sale of non-narcotic~~
6 ~~drugs.~~

7 ~~Nothing contained in subchapters 1-6 of this chapter shall be construed~~
8 ~~to affect the licensing or regulation of pharmacists or pharmacies in this~~
9 ~~state by the State Board of Pharmacy. The State Board of Pharmacy is also~~
10 ~~granted authority to inventory and destroy any outdated or unwanted~~
11 ~~controlled substances at the request of its licensees, with proper records of~~
12 ~~such destructions provided to appropriate agencies. The Arkansas State Board~~
13 ~~of Pharmacy is given primary but not exclusive jurisdiction in the~~
14 ~~enforcement application of this chapter to its licensees. Nothing in~~
15 ~~subchapters 1-6 of this chapter shall be deemed to prohibit the sale of~~
16 ~~nonnarcotic proprietary drugs if such drugs may, under the federal Food, Drug~~
17 ~~and Cosmetic Act or the Arkansas Food, Drug and Cosmetic Act § 20-56-201 et~~
18 ~~seq., be lawfully sold over the counter without a prescription.~~

19
20 SECTION 549. Arkansas Code § 5-64-701 is repealed.

21 ~~5-64-701. Penalties for delivery—Exclusion from Alternative Service~~
22 ~~Act.~~

23 ~~(a) Notwithstanding any other provisions of law to the contrary:~~

24 ~~(1) Any person who is hereafter convicted of delivering~~
25 ~~controlled substances included in Schedule I, as promulgated by the Director~~
26 ~~of the Arkansas Department of Health pursuant to subchapters 1-6 of this~~
27 ~~chapter, shall be sentenced for a term of imprisonment of not less than ten~~
28 ~~(10) years.~~

29 ~~(2) Any person who is hereafter convicted for delivering to~~
30 ~~school students in grades one (1) through twelve (12) or any other person~~
31 ~~under eighteen (18) years of age controlled substances included in Schedules~~
32 ~~I through VI, as promulgated by the Director of the Arkansas Department of~~
33 ~~Health pursuant to subchapters 1-6 of this chapter as amended, shall be~~
34 ~~sentenced for a term of imprisonment of not less than ten (10) years. A~~
35 ~~person over eighteen (18) years of age convicted of the offense defined in~~
36 ~~this subsection, except delivery of less than one (1) ounce of a Schedule VI~~

1 ~~controlled substance, shall not be an "eligible offender" under the~~
2 ~~provisions of the Alternative Service Act, §§ 16-93-501—16-93-510~~
3 ~~{repealed} and 16-93-601.~~

4 ~~(b) For the purposes of this section, the term "delivery" means the~~
5 ~~actual or attempted transfer from one person to another of a controlled~~
6 ~~substance included in Schedule I in exchange for money or anything of value,~~
7 ~~whether or not there is an agency relationship.~~

8 ~~(c) The provisions of this section shall be cumulative and~~
9 ~~supplemental to any other laws of this state prescribing penalties for~~
10 ~~delivery of controlled substances and shall be deemed to modify only those~~
11 ~~laws in direct conflict herewith.~~

12
13 SECTION 550. Arkansas Code § 16-80-101 is repealed.

14 ~~16-80-101. Method of prosecution.~~

15 ~~(a) All public offenses may be prosecuted by indictment, except:~~

16 ~~(1) Offenses of public officers, where a different mode of~~
17 ~~procedure is prescribed by law;~~

18 ~~(2) Offenses exclusively within the jurisdiction of justices of~~
19 ~~the peace, or of police or city courts;~~

20 ~~(3) Offenses arising in the militia, of which a military court~~
21 ~~has exclusive jurisdiction.~~

22 ~~(b) Offenses within the jurisdiction of a justice of the peace, or of~~
23 ~~a city or police court, may be prosecuted by a summons or warrant of arrest,~~
24 ~~in which shall be stated in general terms the offense charged to have been~~
25 ~~committed.~~

26 ~~(c)(1) A public offense for which the only punishment is a fine may be~~
27 ~~prosecuted by a penal action in the name of the State of Arkansas, or in the~~
28 ~~name of an individual or corporation where the whole fine is given to the~~
29 ~~individual or corporation.~~

30 ~~(2) The proceedings in penal actions are regulated by the Code~~
31 ~~of Practice in Civil Cases of 1869.~~

32 ~~(d) In all cases where any fine or penalty shall be imposed by any~~
33 ~~statute of this state as a punishment for any offense and no other provision~~
34 ~~is made for the recovery thereof, the fine or penalty may be recovered by~~
35 ~~indictment.~~

36

1 SECTION 551. Arkansas Code § 16-81-101 is repealed.

2 ~~16-81-101. Persons subject to arrest.~~

3 ~~Persons charged with the commission of a public offense shall be liable~~
4 ~~to be immediately arrested and proceeded against in the manner directed.~~

5
6 SECTION 552. Arkansas Code § 16-81-111 is repealed.

7 ~~16-81-111. Transportation of prisoner.~~

8 ~~(a) Every officer or other person who has arrested, or has in his~~
9 ~~eustody, under the authority of the laws of this state, any prisoner who is~~
10 ~~to be conveyed from one (1) county to another, may carry the prisoner through~~
11 ~~such parts of any county as shall be in the ordinary route of travel, from~~
12 ~~the place where the prisoner was arrested to the place where he is to be~~
13 ~~conveyed and delivered, under the process or authority by which the person~~
14 ~~was arrested or is detained.~~

15 ~~(b)(1) The officer or person having the prisoner in charge shall not~~
16 ~~be liable to arrest on his route.~~

17 ~~(2) The officer or person shall have the like power to require~~
18 ~~any person to aid in securing the prisoner, and retaking him if he escapes,~~
19 ~~as sheriffs or other officers have in their respective counties. The refusal~~
20 ~~or neglect to render the aid shall be an offense punishable in the same~~
21 ~~manner as for disobedience to a summons to assist in the execution of~~
22 ~~process.~~

23 ~~(c) The jailer of any county through which any prisoner may be taken~~
24 ~~is required to receive and safely keep the prisoner in the jail of which he~~
25 ~~has charge when so requested by the officer or person having lawful charge of~~
26 ~~the prisoner, and to redeliver him on the demand of the officer or person.~~

27
28 SECTION 553. Arkansas Code § 16-96-111 is repealed.

29 ~~16-96-111. Trials in police court.~~

30 ~~(a) All trials in the police court for a violation of the bylaws or~~
31 ~~ordinances of the city shall be before the police judge without the~~
32 ~~intervention of a jury, but the defendant, upon appeal, shall have the right~~
33 ~~to a jury trial in the circuit court.~~

34 ~~(b) The police court of any city shall have concurrent jurisdiction~~
35 ~~with justices of the peace over all misdemeanors committed in violation of~~
36 ~~the laws of this state within the corporate limits of the city. In cases of~~

1 ~~conviction, the like fees and costs shall be taxed and allowed as in similar~~
2 ~~eases before justices of the peace; however, those items that would be~~
3 ~~allowed justices of the peace or constables shall not be paid to the police~~
4 ~~judge, or police officers, but shall be paid into the city treasury. Every~~
5 ~~defendant convicted of such misdemeanor and committed to imprisonment, either~~
6 ~~as a part of his punishment or in default of the payment of fine or costs,~~
7 ~~shall be committed to the county jail in the same manner as if committed by a~~
8 ~~justice of the peace, and all fines imposed in the police court shall be paid~~
9 ~~into the city treasury.~~

10
11 SECTION 554. Arkansas Code Title 16, Chapter 96, Subchapter 2 is
12 repealed.

13 ~~16-96-201. Applicability of laws governing circuit courts.~~

14 ~~The provisions of law regulating proceedings in the circuit courts in~~
15 ~~eriminal cases, so far as applicable, shall govern the trial, verdict,~~
16 ~~judgment, and execution in justices' courts, except as otherwise provided in~~
17 ~~this subchapter.~~

18
19 ~~16-96-202. Pleadings.~~

20 ~~No written information or pleadings shall be required in prosecutions~~
21 ~~in justices' courts.~~

22
23 ~~16-96-203. Warrant and summons.~~

24 ~~(a) Where, from his personal knowledge or from information given to~~
25 ~~him on oath, a justice is satisfied that there are reasonable grounds for~~
26 ~~believing that a person has committed a public offense within the~~
27 ~~jurisdiction of his court, he shall either issue a warrant of arrest or a~~
28 ~~summons against the person.~~

29 ~~(b) The warrant of arrest shall not be issued unless the offense~~
30 ~~charged is one of actual or apprehended violence to person or property,~~
31 ~~accompanied by a breach of the peace, or the justice is satisfied that there~~
32 ~~are reasonable grounds for believing that the defendant will escape~~
33 ~~punishment unless arrested.~~

34 ~~(c) The warrant of arrest and the summons shall be similar to those~~
35 ~~prescribed in subchapter 1 of this chapter.~~

36

1 ~~16-96-204.—Subpoenas.~~

2 ~~The justice shall issue subpoenas for witnesses and for the production~~
3 ~~of documentary evidence and shall enforce their attendance or production as~~
4 ~~prescribed in the Civil Code.~~

5
6 ~~16-96-205.—Bail bond.~~

7 ~~It shall be the duty of the justice to require bail of the defendant~~
8 ~~upon it being made to appear that, unless bail is required, he will probably~~
9 ~~escape punishment or that his discharge without bail would endanger persons~~
10 ~~or property, in which latter case the justice may also require security for~~
11 ~~the peace or for good behavior.~~

12
13 ~~16-96-206.—Speedy trial—Postponement.~~

14 ~~(a) Where a person is brought or, in obedience to a bail bond, comes~~
15 ~~before a justice of the peace, charged with the commission of an offense~~
16 ~~within the jurisdiction of his court, as prescribed in §§ 16-88-101—16-88-~~
17 ~~103, 16-88-105, and 16-88-108—16-88-110, the justice shall forthwith~~
18 ~~proceed to the trial of the charge or, for sufficient cause, may postpone the~~
19 ~~trial to a future day.~~

20 ~~(b) If the trial is postponed, the defendant may be committed to the~~
21 ~~eustody of a peace officer, or to jail, or discharged upon bail or without~~
22 ~~bail.~~

23
24 ~~16-96-207.—Trial by justice or jury.~~

25 ~~(a) The issues of law and of fact may be tried by the justice unless~~
26 ~~the defendant demands a trial by jury, in which case the issues shall be~~
27 ~~tried by a jury of twelve (12) persons unless the defendant shall consent to~~
28 ~~be tried by a lesser number.~~

29 ~~(b) Upon a jury trial's being lawfully demanded, the justice shall~~
30 ~~order a peace officer to summon a sufficient number of qualified jurors, from~~
31 ~~which the jury may be formed.~~

32
33 ~~16-96-208.—Change of venue.~~

34 ~~(a)(1) The defendant in any criminal cause pending, either for trial~~
35 ~~or for preliminary examination, before any justice of the peace in any county~~
36 ~~in this state make take a change of venue removing the cause to some other~~

1 ~~justice of the peace in the same township and county in which the cause is~~
2 ~~then pending.~~

3 ~~(2) The defendant shall, at or before the commencement of the~~
4 ~~trial or examination, file with the justice of the peace before whom the~~
5 ~~cause is pending an affidavit setting forth that the justice is a material~~
6 ~~witness in the cause or that the justice is so prejudiced against him that he~~
7 ~~cannot obtain a fair and impartial trial before the justice.~~

8 ~~(3) When any change of venue shall be taken under the provisions~~
9 ~~of this subsection, and there is no other justice in the same township in~~
10 ~~which the cause is then pending, it shall be the duty of the justice of the~~
11 ~~peace to transmit the cause and all papers connected therewith to some other~~
12 ~~justice of the peace in an adjoining township.~~

13 ~~(b)(1) The defendant in any criminal cause pending before any justice~~
14 ~~of the peace in any county in this state may take a change of venue removing~~
15 ~~the cause to some other township in the same county.~~

16 ~~(2) He shall first file with the justice an affidavit setting~~
17 ~~forth that the inhabitants of the township in which the cause is then pending~~
18 ~~are so prejudiced against him that he cannot obtain a fair and impartial~~
19 ~~trial in the township.~~

20 ~~(3) Nothing in this subsection shall be so construed as to allow~~
21 ~~a change of venue from one (1) township to another when the cause is pending~~
22 ~~for preliminary examination only.~~

23 ~~(c) Any change of venue taken under the provisions of this section~~
24 ~~shall be upon the application of the defendant setting forth the foregoing~~
25 ~~facts verified by affidavit and supported by the affidavit of some other~~
26 ~~credible person.~~

27 ~~(d)(1) Every order for the removal of a criminal cause shall specify~~
28 ~~the cause of removal and designate the justice of the peace or the township~~
29 ~~and justice to which the cause is to be removed.~~

30 ~~(2) The order shall be entered on the docket of the justice~~
31 ~~granting the order, and all papers in the cause shall be transmitted by him~~
32 ~~to the justice to whom the cause has been removed.~~

33
34 ~~16-96-209. Submissions of misdemeanors.~~

35 ~~(a) Whoever shall commit an offense less than a felony in this state~~
36 ~~may submit a statement of the facts constituting a charge of the offense to a~~

1 justice of the peace of the township in which the offense shall have
2 occurred.

3 (b) ~~The justice of the peace shall immediately enter upon his docket~~
4 ~~the substance of the statement, naming the offense committed and the time~~
5 ~~when and the place where the offense was committed. He shall read the~~
6 ~~statement to the offender and ask the offender if he is guilty or not guilty;~~
7 ~~and, if he pleads guilty, the justice of the peace shall enter the plea on~~
8 ~~his docket and shall issue a warrant of arrest for the offender, who may give~~
9 ~~bail as in other cases of misdemeanor.~~

10 (c) ~~To ascertain the gravity of the offense, the justice of the peace~~
11 ~~shall subpoena the person or persons maltreated by the offender in the~~
12 ~~commission of the offense and such other witnesses for the state and defense~~
13 ~~as will give a clear understanding of the circumstances of the case.~~

14 (d) ~~The justice of the peace may postpone the case from time to time~~
15 ~~as in trials of misdemeanors.~~

16 (e) ~~The justice of the peace shall immediately, after the examination~~
17 ~~of the witnesses, render judgment against the offender, fixing and specifying~~
18 ~~the punishment of the offender, and for all costs incurred, as in the~~
19 ~~procedure in other cases of misdemeanor.~~

20 (f) ~~The judgment shall be a bar to another prosecution for the same~~
21 ~~offense.~~

22

23 ~~16-96-210. Filing abstract of misdemeanor—Penalty.~~

24 (a) ~~It shall be the duty of each justice of the peace in this state to~~
25 ~~file an abstract of all the misdemeanors tried before him with the clerk of~~
26 ~~his county, on or before the first day of the succeeding term of the circuit~~
27 ~~court, giving the style of the case, the nature of the offense, how he~~
28 ~~obtained jurisdiction of the case, whether the defendant was acquitted or~~
29 ~~convicted, and, if convicted, the amount of fine or punishment imposed.~~

30 (b) ~~The abstract provided for in subsection (a) of this section shall~~
31 ~~remain on file with the clerk, subject to the inspection of the grand jury,~~
32 ~~the prosecuting attorney, and all other persons interested therein.~~

33 (c) ~~Any person violating any of the provisions of this section shall~~
34 ~~be deemed guilty of a misdemeanor and upon conviction shall be fined in any~~
35 ~~sum not less than twenty five dollars (\$25.00) nor more than fifty dollars~~
36 ~~(\$50.00).~~

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~~16-96-211.—Suspended sentence.~~

~~In all cases in which the justice of the peace has, with or without authority, granted a suspended sentence of confinement, the sentence shall run from the date of the decree rendering the suspended sentence, and, when a period of time has elapsed equal to the term of the sentence, the sentence shall be deemed to have expired and shall be of no force and effect thereafter.~~

SECTION 555. Arkansas Code Title 16, Chapter 96, Subchapter 3 is repealed.

~~16-96-301.—Construction.~~

~~Nothing in this subchapter shall be so construed as to prevent officers of the law from arresting and prosecuting offenders when the officers are eyewitnesses of the offense.~~

~~16-96-302.—Requirement.~~

~~(a) In all prosecutions in cases less than felony in courts of justice of the peace and in other inferior courts, the prosecutor, or some person for him, shall enter into bond with good and sufficient security for the payment of all costs which may accrue in the prosecution.~~

~~(b)(1) It shall be lawful, however, for the justice or other officer, when he has strong reason to believe that the person applying for a warrant has been, in plain violation of the criminal laws of this state, maltreated, either in person or property, to permit the person to prosecute without giving the bond required in subsection (a) of this section.~~

~~(2) The person so applying for a warrant, besides making the affidavit required by law, shall also make affidavit that he is unable to give security for the costs which may accrue in the prosecution.~~

~~16-96-303.—Form.~~

~~The bond may be substantially in the following form:~~

~~"State of Arkansas against A _____ B _____~~

~~I, _____, as principal, and _____, as security, bind ourselves to pay all costs in this cause.~~

~~Signed this _____ day of _____, A. D. _____.~~

1 _____
2 ~~(Principal)~~

3 _____
4 ~~(Security)"~~

5
6 ~~16-96-304. Judgment.~~

7 ~~If the accused is acquitted, the court rendering the judgment of~~
8 ~~acquittal shall immediately render judgment for the costs against the~~
9 ~~principal and surety in the bond, but, if the accused is convicted, the court~~
10 ~~rendering the judgment shall, in addition to the fine or imprisonment which~~
11 ~~it shall impose upon the person convicted, render judgment against that~~
12 ~~person for all costs accrued in the case. If the costs are not immediately~~
13 ~~paid, the convicted person, besides undergoing the penalty adjudged against~~
14 ~~him, shall be confined in the county jail at the rate of one (1) day for~~
15 ~~every one dollar (\$1.00) adjudged against him for the fine and costs.~~

16
17 SECTION 556. Arkansas Code § 16-96-402 is repealed.

18 ~~16-96-402. Reports by justices of the peace—Duties of clerk—~~
19 ~~Penalty.~~

20 ~~(a) Justices of the peace shall, on or before the first day of the~~
21 ~~county court at each term thereof, file in the office of the county clerk of~~
22 ~~their respective counties an official transcript of all fines, penalties, and~~
23 ~~forfeitures adjudged by them against defendants in court, giving the amounts~~
24 ~~of judgments, if any, in each case and the name of the officer collecting~~
25 ~~them.~~

26 ~~(b)(1) The clerk of the county court shall charge the officers named~~
27 ~~as the collecting officers with all fines, penalties, and forfeitures~~
28 ~~adjudged by the justices of the peace.~~

29 ~~(2) The officers so charged shall not be credited with any~~
30 ~~deficit on fines or penalties collected by the officers named in subsection~~
31 ~~(a) of this section unless they shall file in the county clerk's office the~~
32 ~~receipt of the county treasurer for the fine or penalty, or shall be able to~~
33 ~~show the death of the party against whom the fine or penalty was adjudged or~~
34 ~~the party's imprisonment in default of fine, as provided by law in such~~
35 ~~eases.~~

36 ~~(c) Any person violating this section shall be guilty of malfeasance~~

1 ~~in office and upon conviction shall be fined in any sum not more than one~~
2 ~~hundred dollars (\$100).~~

3 ~~(d) Nothing in this section shall be construed to repeal or affect in~~
4 ~~any manner whatever any law requiring officers referred to in this section to~~
5 ~~make similar reports in other cases.~~

6
7 SECTION 557. Arkansas Code § 16-96-502 is repealed.

8 ~~16-96-502. By state.~~

9 ~~The state shall have no right of appeal from judgments of justices'~~
10 ~~courts.~~

11
12 SECTION 558. Arkansas Code § 16-96-504 is repealed.

13 ~~16-96-504. Bond.~~

14 ~~In all cases where a person has been convicted of a misdemeanor and~~
15 ~~shall appeal, there shall be no supersedeas of the judgment unless bond shall~~
16 ~~be given with approved security conditioned that the appellant shall appear~~
17 ~~in the court to which the appeal is taken and submit himself to the~~
18 ~~jurisdiction of the court and not depart therefrom without leave of the~~
19 ~~court.~~

20
21 SECTION 559. Arkansas Code § 16-96-510 is repealed.

22 ~~16-96-510. Attorney's fees.~~

23 ~~Upon an affirmance, an attorney's fee of ten percent (10%) of the~~
24 ~~amount of the judgment shall be taxed as part of the costs. The costs in the~~
25 ~~justice's court shall be taxed as part of the costs of the appeal.~~

26
27 SECTION 560. Arkansas Code § 18-16-104 is repealed.

28 ~~18-16-104. Penalty for enticing renter away.~~

29 ~~If any person shall interfere with, entice away, knowingly employ, or~~
30 ~~induce a renter who has contracted with another person for a specified time~~
31 ~~to leave the leased premises before the expiration of his contract without~~
32 ~~the consent of the landlord, that person, upon conviction before any justice~~
33 ~~of the peace or circuit court, be fined not less than twenty five dollars~~
34 ~~(\$25.00) nor more than five hundred dollars (\$500). In addition, he shall be~~
35 ~~liable to the landlord for all advances made by him to the renter by virtue~~
36 ~~of his contract, whether verbal or written, with the renter and for all~~

1 ~~damages which he may have sustained by reason thereof.~~

2
3 SECTION 561. Arkansas Code § 22-3-212 is repealed.

4 ~~22-3-212. Skating in State Capitol Building with metal skates.~~

5 ~~(a) It shall be unlawful for any person above the age of ten (10)~~
6 ~~years to skate with metal skates or to wear metal skates upon any portion of~~
7 ~~the State Capitol Building or any of the abutments thereof or approaches~~
8 ~~thereto.~~

9 ~~(b) Any person violating subsection (a) of this section shall be~~
10 ~~arrested and dealt with in the manner prescribed by law for such offenses.~~

11
12 SECTION 562. Arkansas Code § 23-4-636 is repealed.

13 ~~23-4-636. False reports regarding receipt of money for transportation~~
14 ~~—Penalty.~~

15 ~~Every person, by any letter, mark, sign, or designation whatever or by~~
16 ~~any verbal statement, who falsely and without probable cause reports to any~~
17 ~~railroad or any other company or corporation or to any individuals or to any~~
18 ~~of the officers, servants, agents, or employees of any such corporation, or~~
19 ~~individuals that any conductor, brakeman, engineer, fireman, station agent,~~
20 ~~or other employees of any railroad company, corporation, or individuals, have~~
21 ~~received any money for the transportation of persons or property or who~~
22 ~~falsely and without probable cause reports that any conductor, brakeman,~~
23 ~~engineer, fireman, station agent, or other employees of any such railroad~~
24 ~~company, corporation, or individuals neglected, failed, or refused to collect~~
25 ~~any money for transportation of persons or property when it was their duty to~~
26 ~~do so, then that person upon conviction shall be adjudged guilty of a~~
27 ~~misdemeanor and shall be fined in any sum not less than one hundred dollars~~
28 ~~(\$100) nor more than five hundred dollars (\$500).~~

29
30 SECTION 563. Arkansas Code § 23-4-803 is repealed.

31 ~~23-4-803. State officers accepting passes—Penalty.~~

32 ~~Any officer, legislative, executive, or judicial, of this state, who~~
33 ~~shall accept and use any free pass to be transported for any distance over~~
34 ~~the line of any railroad or transportation company, either free of charge or~~
35 ~~for less compensation than that received therefor from the general public,~~
36 ~~for every case where the pass is so used, shall be deemed guilty of a~~

1 ~~misdemeanor. Upon conviction thereof, the officer shall be subject to a fine~~
2 ~~of not less than twenty dollars (\$ 20.00) nor more than two hundred dollars~~
3 ~~(\$ 200) and shall be removed from office. The officer may be prosecuted in~~
4 ~~any county where he or she resides or in which the free pass may have been~~
5 ~~used by him or her.~~

6
7 SECTION 564. Arkansas Code §§ 23-10-201 – 23-10-208 are repealed.

8 ~~23-10-201. Depot facilities.~~

9 ~~(a)(1) All persons who own or operate any lines of railroad in this~~
10 ~~state shall keep waiting rooms in all depot buildings for the accommodation~~
11 ~~of their passengers. The waiting room shall be open both day and night for~~
12 ~~the free and unrestricted use of their passengers.~~

13 ~~(2) However, upon all railroad lines running neither freight nor~~
14 ~~passenger trains over the lines at night, the owners or operators shall be~~
15 ~~allowed to close their waiting rooms at 7:00 p.m. and open their waiting~~
16 ~~rooms to the public at 6:00 a.m.~~

17 ~~(3) The waiting rooms shall at all proper times and seasons be~~
18 ~~comfortably heated, and stations and waiting rooms shall at all times be~~
19 ~~supplied with wholesome drinking water.~~

20 ~~(4) All railroads shall in all other respects keep and maintain~~
21 ~~the waiting rooms in a sanitary and clean manner.~~

22 ~~(b)(1) All railroads passing through or into any city or incorporated~~
23 ~~town in this state shall construct and maintain two (2) restrooms at their~~
24 ~~passenger depots, one (1) for males and one (1) for females. The restrooms~~
25 ~~shall be designated by proper lettering.~~

26 ~~(2) The restrooms shall be kept open at all hours for the~~
27 ~~accommodation of passengers and employees of the railroads and shall be~~
28 ~~constructed and kept in good condition.~~

29 ~~(c)(1) All railway companies that refuse and neglect to comply with~~
30 ~~the provisions and requirements of this section shall be deemed guilty of a~~
31 ~~misdemeanor and upon conviction before any court of competent jurisdiction~~
32 ~~shall be fined not less than one hundred dollars (\$100) nor more than three~~
33 ~~hundred dollars (\$300). Every day or night that the railway company fails to~~
34 ~~comply with the provisions of this section shall be a separate offense.~~

35 ~~(2) Any agents of the railway company at the depot who refuse or~~
36 ~~neglect to carry out the provisions of this section shall on conviction be~~

1 ~~fined not less than ten dollars (\$10.00) nor more than twenty five dollars~~
2 ~~(\$25.00) for each offense.~~

3 ~~(d) The provisions of this section shall not apply to Benton,~~
4 ~~Washington, and Crawford counties.~~

5
6 ~~23-10-203. Bulletin boards showing time of arrival and departure of~~
7 ~~trains.~~

8 ~~(a)(1) All railroads operating within this state are required to set~~
9 ~~up bulletin boards at each and every telegraph station on the railroad and~~
10 ~~shall post on these bulletin boards the time of the arrival and departure of~~
11 ~~all passenger trains.~~

12 ~~(2) If any passenger train is ten (10) or more minutes behind~~
13 ~~time, there shall be posted on the bulletin boards as near the time the train~~
14 ~~is behind as can be ascertained.~~

15 ~~(b) All railroad companies failing to comply with the provisions of~~
16 ~~this section shall be deemed guilty of a misdemeanor and upon conviction in a~~
17 ~~court of competent jurisdiction shall be fined in any sum not more than one~~
18 ~~hundred dollars (\$100) for each and every offense.~~

19
20 ~~23-10-204. Passenger trains to depart only from depot at junction.~~

21 ~~All railroad companies operating railroads in this state shall require~~
22 ~~at all junctions where two (2) or more trains connect that all trains~~
23 ~~carrying passengers departing from the junction shall depart only from the~~
24 ~~station house or depot at the junction.~~

25
26 ~~23-10-205. Announcements of departures, destinations, and track~~
27 ~~numbers.~~

28 ~~(a) All railroad companies operating passenger trains in this state~~
29 ~~shall provide and have on duty at the depot or station a crier whose duty it~~
30 ~~shall be to cry out at the depot or station the departure of all trains, the~~
31 ~~destination, and the track from which any train will depart. The crier shall~~
32 ~~cry out the departures a sufficient time before the departure of any train to~~
33 ~~give passengers ample time to reach the trains.~~

34 ~~(b) All railroad companies as mentioned in § 23-10-204 shall be~~
35 ~~responsible for the faithful performance of such criers employed by them.~~

36 ~~(c)(1) Any railroad company, as provided by § 23-10-204, which fails,~~

1 ~~refuses, or neglects to provide the crier, as provided in subsection (a) of~~
2 ~~this section, shall be deemed guilty of a misdemeanor and subject to a fine~~
3 ~~of from twenty five dollars (\$25.00) to one hundred dollars (\$100).~~

4 ~~(2) Each failure to cry out the departure of each train shall~~
5 ~~constitute a separate offense.~~

6
7 ~~23-10-206. Violation of §§ 23-10-204 and 23-10-205 a misdemeanor.~~
8 ~~Companies violating §§ 23-10-204 and 23-10-205 shall be punishable in~~
9 ~~and by the courts as is now provided for persons guilty of a misdemeanor.~~

10
11 ~~23-10-207. Protection of passengers from annoyance or fraud —~~
12 ~~Penalty for perpetration.~~

13 ~~(a) All persons, agents, and corporations who own or operate any~~
14 ~~railroads in this state are authorized and empowered to do and perform all~~
15 ~~acts and things which may be necessary to protect passengers on their cars~~
16 ~~and at their stations from all acts of fraud, imposition, or annoyance which~~
17 ~~are attempted or perpetrated while the passengers are on the cars or in or~~
18 ~~upon the property of the railroads at their stations.~~

19 ~~(b) All persons found practicing acts of fraud, imposition, or~~
20 ~~annoyance or attempting to perpetrate acts of fraud, imposition, or annoyance~~
21 ~~at the places set forth in subsection (a) of this section shall be guilty of~~
22 ~~a misdemeanor and upon conviction shall be fined in any sum not exceeding~~
23 ~~fifty dollars (\$50.00) for each offense.~~

24
25 ~~23-10-208. Business solicitations of passengers prohibited — Penalties~~
26 ~~— Enforcement.~~

27 ~~(a)(1) It shall be unlawful for any persons, except as provided in~~
28 ~~subdivision (b)(2) of this section, to drum or solicit business or patronage~~
29 ~~for any hotel, lodging house, eating house, bath house, physician, masseur,~~
30 ~~surgeon, or other medical practitioner on the trains, cars, or in the depots~~
31 ~~of any railroad or common carrier operating or running within the State of~~
32 ~~Arkansas.~~

33 ~~(2) Any persons plying or attempting to ply the vocation of~~
34 ~~drumming or soliciting, except as provided in subdivision (b)(2) of this~~
35 ~~section, upon the trains, cars, or in the depots of the railroads or common~~
36 ~~carriers shall be deemed guilty of a misdemeanor and upon conviction shall be~~

1 ~~punished by a fine of not less than fifty dollars (\$50.00) nor more than one~~
2 ~~hundred dollars (\$100) for each offense.~~

3 ~~(b)(1) It shall be unlawful for any railroad or common carrier~~
4 ~~operating a line within the State of Arkansas knowingly to permit its trains,~~
5 ~~cars, or depots within the state to be used by any persons for drumming or~~
6 ~~soliciting business or patronage for any hotel, lodging house, eating house,~~
7 ~~bath house, physician, masseur, surgeon, or other medical practitioner, or~~
8 ~~drumming or soliciting for any business or profession whatsoever.~~

9 ~~(2) However, it may be lawful for railroads or common carriers~~
10 ~~to permit agents of transfer companies on their trains to check baggage or~~
11 ~~provide transfers for passengers, or for persons or corporations to sell~~
12 ~~periodicals and such other articles as are usually sold by news agencies for~~
13 ~~the convenience and accommodation of the passengers.~~

14 ~~(c)(1) It shall be the duty of the conductor or person in charge of~~
15 ~~the train of any railroad or common carrier to report to the prosecuting~~
16 ~~attorney any persons found violating any of the provisions of this section.~~

17 ~~(2) Upon a willful failure or neglect to report any persons~~
18 ~~known to be violating the provisions of this section, by drumming or~~
19 ~~soliciting, the conductor or other person in charge of the train shall be~~
20 ~~deemed guilty of a misdemeanor and upon conviction shall be fined not less~~
21 ~~than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).~~

22 ~~(d) For the purpose of enforcing the provisions of this section,~~
23 ~~conductors, trainmen, or special officers employed by railroads or common~~
24 ~~carriers are required to forbid any violations of this section. If necessary,~~
25 ~~they are authorized to call an officer at such a place where the officer can~~
26 ~~be had and report a violation of this section to the officer. It shall be the~~
27 ~~officer's duty to arrest the person charged with violating this section and~~
28 ~~to take him or her immediately before some officer to be tried according to~~
29 ~~law.~~

30
31 SECTION 565. Arkansas Code § 23-12-401 is repealed.

32 ~~23-12-401. Requirements of construction of engines.~~

33 ~~(a)(1) It shall be unlawful for any person, company, or corporation,~~
34 ~~or receiver of any railroad, to use or operate any locomotive engines in the~~
35 ~~State of Arkansas that are not constructed so that the engineer and fireman~~
36 ~~will be located under the same roof of the engine cab at all times while~~

1 ~~engaged in firing, running, and operating the engine.~~

2 ~~(2) The roof is not to be more than fourteen feet (14') in~~
3 ~~length and is to extend entirely over the deck or gangway of the engine.~~

4 ~~(b) It is intended that subsection (a) of this section shall apply to~~
5 ~~engines of the "Woo ten Firebox Type", or "Mother Hubbard" or "Double Cab" or~~
6 ~~"Camel Back" engines only.~~

7 ~~(c) Any person, company, or corporation or receiver of any railroad~~
8 ~~violating the provisions of this section shall be deemed guilty of a~~
9 ~~misdemeanor and upon conviction shall be fined in any sum not less than fifty~~
10 ~~dollars (\$50.00) and not more than five hundred dollars (\$500) for each~~
11 ~~offense, and each day shall constitute a separate offense.~~

12
13 SECTION 566. Arkansas Code § 23-12-403 is repealed.

14 ~~23-12-403. Requirements of construction of caboose cars.~~

15 ~~(a) The provisions of this section shall apply to any corporation or~~
16 ~~to any persons while engaged as common carriers in the transportation by~~
17 ~~railroad of passengers or property within this state to which the regulative~~
18 ~~power of this state extends.~~

19 ~~(b)(1) It shall be unlawful, except as otherwise provided in this~~
20 ~~section, for any such common carrier by railroad to use on its lines any~~
21 ~~caboose or other car used for similar purposes unless the caboose or other~~
22 ~~car is at least twenty four feet (24') in length inclusive of the platform~~
23 ~~and equipped with two (2) four wheel trucks.~~

24 ~~(2) The caboose car or other car used for similar purposes:~~

25 ~~(A) Shall be of constructive length equal to that of the~~
26 ~~thirty ton capacity freight cars constructed according to M. C. B. standards;~~

27 ~~(B) Shall be provided with a door in each end and with an~~
28 ~~outside platform across each end of the car, and each platform shall not be~~
29 ~~less than twenty four inches (24") in width; and~~

30 ~~(C) Shall be equipped with proper guard rails and with~~
31 ~~grab irons and steps for the safety of persons getting on and off the cars.~~
32 ~~The steps shall be equipped with a suitable rod, board, or other guards at~~
33 ~~each end and at the back thereof properly designed to prevent slipping from~~
34 ~~the step.~~

35 ~~(3) The caboose shall be not less than seven feet (7') in~~
36 ~~height, with cupola, and have the necessary closets and windows.~~

1 ~~(c) Whenever any caboose car or other cars now in use by a common~~
2 ~~carrier as provided in subsection (a) of this section shall be brought into~~
3 ~~any shop for general repairs, it shall be unlawful to again put the caboose~~
4 ~~or other car into service of the common carrier within this state unless it~~
5 ~~is equipped as provided in subsection (b) of this section.~~

6 ~~(d) Any common carrier as provided in subsection (a) of this section~~
7 ~~violating any of the provisions of this section shall be guilty of a~~
8 ~~misdemeanor and upon conviction shall be fined not less than fifty dollars~~
9 ~~(\$50.00) nor more than one hundred dollars (\$100) for each offense.~~

10
11 SECTION 567. Arkansas Code § 23-12-405 is repealed.

12 ~~23-12-405. First aid kits and drinking water required.~~

13 ~~(a) Every person operating a common carrier railroad in this state~~
14 ~~shall equip each locomotive and caboose used in train or yard switching~~
15 ~~service and every passenger car used in passenger service with a first aid~~
16 ~~kit of a type to be approved by the Arkansas Transportation Commission~~
17 ~~{abolished}. However, the first aid kits shall not be required on equipment~~
18 ~~used exclusively in yard or switching service where first aid kits are~~
19 ~~maintained in the yard or terminal.~~

20 ~~(b) Each locomotive and caboose shall be furnished with sanitary~~
21 ~~drinking cups and pure ice cooled drinking water dispensed from a suitable~~
22 ~~sanitary container.~~

23 ~~(c) Any person guilty of violating any of the provisions of this~~
24 ~~section shall be guilty of a misdemeanor and shall be fined, in the name of~~
25 ~~the State of Arkansas, not less than twenty five dollars (\$25.00) for each~~
26 ~~offense, and each day shall constitute a separate offense by the railroad~~
27 ~~employer thereof.~~

28 ~~(d) For the purpose of this section, "locomotive" shall include all~~
29 ~~engines propelled by any form of energy and used in railroad service such as~~
30 ~~transfer or rail line haul or yard switching service.~~

31
32 SECTION 568. Arkansas Code § 23-12-511 is repealed.

33 ~~23-12-511. Drinking water furnished maintenance of way employees—~~
34 ~~Enforcement—Penalties.~~

35 ~~(a) Every railroad operating in this state shall provide its~~
36 ~~maintenance of way employees with sanitary drinking water to be dispensed~~

1 through sanitary drinking facilities.

2 (b) ~~It is made the duty of the Director of the Department of Health of~~
3 ~~this state to enforce the provisions of this section when a complaint is~~
4 ~~properly filed with the State Board of Health, and it shall be the duty of~~
5 ~~the prosecuting attorney of any district in this state, upon the request of~~
6 ~~the director, to enforce the provisions of this section.~~

7 (c) ~~Failure to comply with this section shall constitute a~~
8 ~~misdemeanor, and any employer upon conviction for violation of this section~~
9 ~~shall be liable to a fine of not less than twenty five dollars (\$25.00) nor~~
10 ~~more than one hundred dollars (\$100).~~

11
12 SECTION 569. Arkansas Code § 23-12-513 is repealed.

13 ~~23-12-513. Shelter required where railroad equipment constructed or~~
14 ~~repaired.~~

15 (a)(1) ~~It shall be unlawful for any railroad company or corporation,~~
16 ~~or other persons who own, control, or operate any lines of railroad in the~~
17 ~~State of Arkansas, to build, construct, or repair railroad equipment without~~
18 ~~first erecting and maintaining a building or shed over the repair tracks at~~
19 ~~every division point.~~

20 (2) ~~The building or shed is to be provided with a floor where~~
21 ~~the construction or repair work is permanently done, so as to provide that~~
22 ~~all men permanently employed in the construction and repair of cars, trucks,~~
23 ~~and other railroad equipment shall be under shelter during snows, sleet,~~
24 ~~rain, and other inclement weather.~~

25 (b)(1) ~~Every corporation, person, manager, superintendent, or foreman~~
26 ~~of any company, corporation, or person who fails or refuses to comply with~~
27 ~~the provisions of this section shall be deemed guilty of a misdemeanor and~~
28 ~~upon conviction shall be punished by a fine of not less than twenty five~~
29 ~~dollars (\$25.00) nor more than one hundred dollars (\$100).~~

30 (2) ~~Each day that the railroad company, corporation, person,~~
31 ~~manager, foreman, or agent of any railroad company, corporation, or person~~
32 ~~refuses or fails to comply with the provisions of this section shall~~
33 ~~constitute a separate and distinct violation thereof.~~

34
35 SECTION 570. Arkansas Code § 23-12-801 is repealed.

36 ~~23-12-801. Improper language in waiting rooms or cars.~~

1 ~~(a) It shall be unlawful for any passenger or any railroad official or~~
2 ~~employee to use any obscene, profane, or boisterous language in any railroad~~
3 ~~waiting room or car in which passengers are transported.~~

4 ~~(b) Any person violating the provisions of this section shall be~~
5 ~~guilty of a misdemeanor and shall upon conviction be fined not less than five~~
6 ~~dollars (\$5.00) nor more than twenty five dollars (\$25.00).~~

7 ~~(c) It shall be the duty of conductors and station agents to eject any~~
8 ~~person violating the provisions of this section from the car or waiting room.~~

9
10 SECTION 571. Arkansas Code § 23-12-803 is repealed.

11 ~~23-12-803. Use of track as highway.~~

12 ~~Every person who shall use any railroad track as a common highway for~~
13 ~~horses, cattle, or vehicles other than those propelled on the rails of the~~
14 ~~railroad in the operation thereof shall on conviction be fined in any sum not~~
15 ~~exceeding twenty five dollars (\$ 25.00) for each offense and may be~~
16 ~~imprisoned in the county jail for a period not exceeding thirty (30) days.~~

17
18 SECTION 572. Arkansas Code § 23-12-806 is repealed.

19 ~~23-12-806. Animals killed on railroad — Penalty for disposition of~~
20 ~~carcass without notice.~~

21 ~~If any section boss, master, hand, or other person employed by any~~
22 ~~railroad company owning and operating any railroad in this state or any other~~
23 ~~person connected with any railroad in this state is caught mutilating,~~
24 ~~disfiguring, burning, hauling off, or burying any dead carcass that is killed~~
25 ~~on any railroad in this state, without first notifying at least two (2)~~
26 ~~citizens of the neighborhood, whose duty it shall be to take and preserve all~~
27 ~~marks, flesh, ear, or otherwise determine the value of the animal, brute,~~
28 ~~swine, or other stock, he or she shall be deemed guilty of a misdemeanor and~~
29 ~~be fined in any sum not less than twenty five dollars (\$ 25.00) nor more than~~
30 ~~five hundred dollars (\$ 500) for the offense.~~

31
32 SECTION 573. Arkansas Code § 23-12-911 is repealed.

33 ~~23-12-911. Killing or injuring livestock — Claims agents.~~

34 ~~(a) All persons, firms, or corporations operating any railroad within~~
35 ~~this state are required to employ one (1) or more claims agents whose duty it~~
36 ~~shall be to visit all regular stations upon their lines, where notice has~~

1 been given to the agent of the company at the station that any kind of stock
2 has been killed by the operation of the road, as often as once every thirty
3 (30) days. At that time and place the claims agent shall take up the matter
4 of settlement for the killing of any stock with the owner thereof, with a
5 view to making final settlement for the stock and paying for the stock.

6 (b) ~~The claims agent shall give notice to the station agent at least~~
7 ~~five (5) days before his or her visit at the station, stating therein the~~
8 ~~time of his or her visit as near as may be practicable.~~

9 (c) ~~Any person, firm, or corporation engaged in the operation of a~~
10 ~~railroad within this state who shall fail to comply with the provisions of~~
11 ~~subsection (a) of this section shall be deemed guilty of a misdemeanor and~~
12 ~~upon conviction shall be fined in any sum not less than fifty dollars~~
13 ~~(\$50.00) nor more than five hundred dollars (\$500). Each month that the~~
14 ~~claims agent fails or refuses to visit any station where the station agent~~
15 ~~has been notified that stock has been killed or injured by the railroad shall~~
16 ~~constitute a separate offense.~~

17 (d) ~~Should the claims agent fail or refuse to comply with the~~
18 ~~provisions of this section, he or she shall be deemed guilty of a misdemeanor~~
19 ~~and on conviction shall be fined in any sum not less than ten dollars~~
20 ~~(\$10.00) nor more than fifty dollars (\$50.00) for each offense.~~

21
22 SECTION 574. Arkansas Code Title 23, Chapter 13, Subchapter 4 is
23 repealed.

24 ~~23-13-401. Penalties.~~

25 ~~Any person violating any of the provisions of §§ 23-13-401—23-13-~~
26 ~~405 shall be guilty of a misdemeanor and upon conviction shall be punished by~~
27 ~~a fine of not less than ten dollars (\$ 10.00) nor more than fifty dollars (\$~~
28 ~~50.00) or by imprisonment for not more than thirty (30) days, or by both fine~~
29 ~~and imprisonment.~~

30
31 ~~23-13-402. Liability to passengers.~~

32 ~~The owners and operators of motor buses operating between cities and~~
33 ~~towns in Arkansas shall not be liable to passengers on account of their~~
34 ~~reasonable observance of §§ 23-13-401—23-13-405.~~

35
36 ~~23-13-403. Seating and aisle space to be numbered.~~

1 ~~Each seat and portion of aisle space used for passengers on motor buses~~
2 ~~operating between cities and towns in Arkansas shall be numbered.~~

3
4 ~~23-13-404. Assignment of seats or standing places.~~

5 ~~(a) Each passenger upon entering a motor bus shall be assigned to a~~
6 ~~numbered seat or standing place.~~

7 ~~(b) Seats and standing places shall be assigned in such a manner as to~~
8 ~~ensure:~~

9 ~~(1) An equal distribution throughout the bus of the weight of~~
10 ~~the passengers being transported, as nearly as practicable, to secure the~~
11 ~~comfortable, safe, and efficient operation of the bus to the end that traffic~~
12 ~~hazards likely to result in accidents or collisions may be minimized;~~

13 ~~(2) The maximum convenience, welfare, health, and safety of the~~
14 ~~passengers being transported so that the comfort, life, limb, and person of~~
15 ~~the passengers will not be inconvenienced, endangered, or threatened by~~
16 ~~collision, violence, or otherwise; and~~

17 ~~(3) The peace and good order among the passengers being~~
18 ~~transported.~~

19 ~~(c) The maximum seating capacity of each motor bus shall not be~~
20 ~~greater than the manufacturer's rated capacity, but passengers may be~~
21 ~~permitted to stand if each passenger is assigned a standing place in the bus~~
22 ~~in keeping with the provisions of §§ 23-13-401—23-13-405.~~

23
24 ~~23-13-405. Occupation of space not assigned unlawful—Refusal to~~
25 ~~move after tender of fare paid—Arrest.~~

26 ~~(a) It shall be unlawful for any person to occupy any seat, standing~~
27 ~~space, or any other space on a motor bus except that assigned by the operator~~
28 ~~thereof.~~

29 ~~(b) Any passenger who refuses to accept and occupy the space assigned~~
30 ~~to him or her and who, upon tender of the fare paid, refuses peaceably and~~
31 ~~without disorder to remove himself or herself from the motor bus after being~~
32 ~~requested so to do by the driver shall be guilty of violating the provisions~~
33 ~~of §§ 23-13-401—23-13-405 and shall be punished as provided in § 23-13-401.~~

34 ~~(c) The driver of any motor bus may cause any person violating the~~
35 ~~provisions of §§ 23-13-401—23-13-405 to be delivered to the proper~~
36 ~~authority for arrest.~~

1
2 ~~23-13-406. Refusal to take assigned seat or leave vehicle — Failure~~
3 ~~to enforce seating assignments.~~

4 ~~(a) All passengers on any motor-propelled, passenger-carrying vehicle~~
5 ~~shall be required to take the seats or spaces assigned to them. Any person~~
6 ~~refusing to do so shall immediately leave the vehicle. If he or she remains~~
7 ~~upon the vehicle, he or she shall be guilty of a misdemeanor and upon~~
8 ~~conviction shall be fined in any sum not less than twenty-five dollars~~
9 ~~(\$25.00) nor more than five hundred dollars (\$500) or sentenced to the county~~
10 ~~jail for not less than one (1) month or more than six (6) months, or both.~~

11 ~~(b)(1) Upon refusal of any passenger to leave the vehicle, the~~
12 ~~operator or person in charge shall proceed to the nearest town, city, hamlet,~~
13 ~~or village and shall make complaint to the first available peace officer,~~
14 ~~whose duty it shall be to remove the passenger and subject him or her to~~
15 ~~arrest.~~

16 ~~(2) The failure on the part of the operator or other person in~~
17 ~~charge of the vehicle to cause the passengers to take and remain in their~~
18 ~~seats and spaces provided for them or to immediately cause the arrest of any~~
19 ~~passenger refusing to comply with request to take or remain in the seat and~~
20 ~~space so designated shall be deemed a misdemeanor, and upon conviction the~~
21 ~~operator or other person shall be fined in any sum not less than twenty-five~~
22 ~~dollars (\$25.00) nor more than five hundred dollars (\$500).~~

23
24 SECTION 575. Arkansas Code § 23-17-109 is repealed.

25 ~~23-17-109. Telegraph companies — Divulging contents of message —~~
26 ~~Willful refusal to transmit or deliver message — Penalty.~~

27 ~~Any person connected with any telegraph company in this state, either~~
28 ~~as agent, clerk, operator, messenger, or in any other capacity, who willfully~~
29 ~~divulges the contents or the nature of the contents of any private~~
30 ~~communication entrusted to him or her for transmission or delivery or who~~
31 ~~willfully refuses or neglects to transmit or deliver the private~~
32 ~~communication entrusted to him or her for transmission or delivery on~~
33 ~~conviction before any court of competent jurisdiction shall be adjudged~~
34 ~~guilty of a misdemeanor and shall pay a fine of not less than five hundred~~
35 ~~dollars (\$ 500) nor more than one thousand dollars (\$ 1,000) or be imprisoned~~
36 ~~in the county jail for not less than six (6) nor more than twelve (12) months~~

1 ~~or shall be punished with both fine and imprisonment at the discretion of the~~
2 ~~court trying the same.~~

3
4 SECTION 576. Arkansas Code § 23-17-111 is repealed.

5 ~~23-17-111. Overcharge by telegraph operators prohibited.~~

6 ~~(a) All agents or operators for any telegraph company doing business~~
7 ~~in this state are prohibited from charging, collecting, or receiving pay for~~
8 ~~any message sent or received by them in excess of the regular rate charged~~
9 ~~for the same.~~

10 ~~(b) Any person who violates the provisions of this section shall be~~
11 ~~deemed guilty of a misdemeanor and upon conviction shall be fined in any sum~~
12 ~~not less than one hundred dollars (\$100) nor more than five hundred dollars~~
13 ~~(\$500).~~

14
15
16 /s/ Luker

17
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19 APPROVED: 04/11/2005

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