

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Ross**

# A Bill

**SENATE BILL 355**

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

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §5-65-104 TO  
9 PROVIDE FOR A THIRTY (30) DAY DRIVING PERMIT FROM TIME OF  
10 ARREST FOR PERSONS CHARGED WITH DWI; AND FOR OTHER  
11 PURPOSES."

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

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15 SECTION 1. Arkansas Code Annotated §5-65-104 is amended to read as  
16 follows:

17 "5-65-104. Seizure, suspension, and revocation of license - Temporary  
18 permits.

19 (a) (1) At the time of arrest for violating 5-65-103, the arresting  
20 officer shall seize the motor vehicle operator's license of the person  
21 arrested and issue to such person a temporary driving permit to expire thirty  
22 (30) days from time of arrest.

23 (2) The arresting officer shall remit the seized operator's  
24 license to the court.

25 (3) Upon arraignment, the judge shall set the matter for trial  
26 within thirty (30) days of the time of arrest.

27 (A) *If the person charged for violating 5-65-103 requests a*  
28 *delay in the proceedings, or causes any delay, and because of the delay the*  
29 *trial cannot be heard by the court within thirty (30) days from time of arrest*  
30 *or at the first available time, then no temporary permit shall be issued, and*  
31 *their driving privileges shall expire thirty (30) days from time of arrest.*

32 (B) *If the case is not heard through no fault or motion of*  
33 *the defendant within thirty (30) days, the court shall issue such person a*  
34 *temporary permit to expire on the date of trial.*

35 (4) If the person is convicted of violating 5-65-103, the court

1 shall transmit the operator's license to the Office of Driver Services and  
2 shall instruct the Office of Driver Services to suspend or revoke such  
3 person's motor vehicle operator's license as follows:

4 (A) Suspension for not less than ninety (90) days nor more  
5 than one hundred twenty (120) days for the first offense;

6 (B) Suspension for not less than one (1) year nor more than  
7 sixteen (16) months for a second offense within *five (5) years* of the first  
8 offense;

9 (C) Suspension for not less than two (2) years nor more  
10 than thirty (30) months for the third offense within *five (5) years* of the  
11 first offense; and

12 (D) Revocation for the fourth or subsequent offense  
13 occurring within a *five-year* period of the first offense. Revocation shall  
14 continue for a period of three (3) years.

15 (b) (1) Any person who is found guilty or enters a plea of guilty to a  
16 first offense under this act may petition the Office of Driver Services that  
17 he or she be issued a restricted operator permit for employment-related  
18 purposes or to attend a state-required alcohol treatment or education program.

19 (2) The Office of Driver Services shall notify each such person  
20 that he or she may request a restricted permit and shall advise the person of  
21 the time and place for making such request and for the hearing thereon, which  
22 shall be conducted within ten (10) days from the guilty plea or conviction.

23 (3) Such notice shall be given by mailing the notice to the last  
24 known address of the person whose operator license is suspended.

25 (4) Any previously issued temporary permit shall remain in effect  
26 until the hearing date.

27 (5) Furthermore, the sentencing court may postpone acceptance of  
28 a guilty plea or sentencing following a conviction until a determination of  
29 the request for a restricted operator's permit has been made.

30 (6) If at such hearing it is determined that the offender has no  
31 reasonable alternative mode of transportation to and from his or her place of  
32 employment, or to a state-required alcohol treatment or education program, or  
33 that driving of a motor vehicle is an essential part of the offender's work,  
34 and the offender has no previous convictions for a violation of this act, the  
35 restricted operator permit may be issued. If the court has required an

1 alcohol treatment or education program that exceeds the length of the  
2 suspension under this section, a restricted operator permit may be issued for  
3 the purpose of completing the required program. Any person to whom such  
4 restricted permit has been issued who shall operate a motor vehicle other than  
5 for the purposes and under the conditions prescribed in the permit shall, upon  
6 conviction therefor, be imprisoned for ten (10) days.

7 (c) The Office of Driver Services shall charge a fee of twenty-five  
8 dollars (\$25.00) for reinstating an operator's license suspended because of a  
9 conviction for a violation of 5-65-103. Forty percent (40%) of the revenues  
10 derived from this fee shall be deposited in the State Treasury as special  
11 revenues and credited to the Public Health Fund to be used exclusively for the  
12 Department of Health-Blood Alcohol Program."

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14 SECTION 2. All provisions of this act of a general and permanent nature  
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
16 Revision Commission shall incorporate the same in the Code.

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18 SECTION 3. If any provision of this act or the application thereof to  
19 any person or circumstance is held invalid, such invalidity shall not affect  
20 other provisions or applications of the act which can be given effect without  
21 the invalid provision or application, and to this end the provisions of this  
22 act are declared to be severable.

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

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*/s/Ross*

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