

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

# A Bill

**SENATE BILL 76**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §5-65-104 TO  
9 ALLOW THE OFFICE OF DRIVER SERVICES TO ISSUE A RESTRICTED  
10 OPERATOR PERMIT TO PERSONS WHO HAVE NOT BEEN CONVICTED OF  
11 THE OMNIBUS DWI ACT WITHIN THE PAST THREE YEARS; AND FOR  
12 OTHER PURPOSES."

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

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

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

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

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

26 (3) Upon arraignment, the judge shall issue such person a  
27 temporary permit to expire on the date of the trial.

28 (4) If the person is convicted of violating 5-65-103, the court  
29 shall transmit the operator's license to the Office of Driver Services and  
30 shall instruct the Office of Driver Services to suspend or revoke such  
31 person's motor vehicle operator's license as follows:

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

34 (B) Suspension for not less than one (1) year nor more than  
35 sixteen (16) months for a second offense within five (5) years of the first

1 offense;

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

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

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

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

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

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

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

23 (6) If at such hearing it is determined that the offender has no  
24 reasonable alternative mode of transportation to and from his or her place of  
25 employment, or to a state-required alcohol treatment or education program, or  
26 that driving of a motor vehicle is an essential part of the offender's work,  
27 and the offender has no convictions for a violation of this act within the  
28 past *five (5)* years, the restricted operator permit may be issued. If the  
29 court has required an alcohol treatment or education program that exceeds the  
30 length of the suspension under this section, a restricted operator permit may  
31 be issued for the purpose of completing the required program. Any person to  
32 whom such restricted permit has been issued who shall operate a motor vehicle  
33 other than for the purposes and under the conditions prescribed in the permit  
34 shall, upon conviction therefor, be imprisoned for ten (10) days.

35 (c) The Office of Driver Services shall charge a fee of twenty-five

1 dollars (\$25.00) for reinstating an operator's license suspended because of a  
2 conviction for a violation of 5-65-103. Forty percent (40%) of the revenues  
3 derived from this fee shall be deposited in the State Treasury as special  
4 revenues and credited to the Public Health Fund to be used exclusively for the  
5 Department of Health-Blood Alcohol Program."

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

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11 SECTION 3. If any provision of this act or the application thereof to  
12 any person or circumstance is held invalid, such invalidity shall not affect  
13 other provisions or applications of the act which can be given effect without  
14 the invalid provision or application, and to this end the provisions of this  
15 act are declared to be severable.

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

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*/s/Walters*

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