

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL

4 **By: Representatives Parkerson and K. Wood**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE ANN. § 5-65-202(a)(3) TO
9 PROVIDE THAT A PERSON SHALL BE DEEMED TO HAVE GIVEN
10 CONSENT TO A CHEMICAL TEST OF HIS BLOOD, BREATH, OR URINE
11 FOR THE PURPOSE OF DETERMINING THE ALCOHOL OR CONTROLLED
12 SUBSTANCE CONTENT OF HIS OR HER BLOOD IF, AT THE TIME THE
13 PERSON IS ARRESTED FOR DWI, THE LAW ENFORCEMENT OFFICER
14 HAS REASONABLE CAUSE TO BELIEVE THAT THE PERSON, WHILE
15 OPERATING OR IN ACTUAL PHYSICAL CONTROL OF A MOTOR
16 VEHICLE, IS INTOXICATED OR HAS ONE-TENTH OF ONE PERCENT
17 (0.10%) OR MORE OF ALCOHOL IN HIS OR HER BLOOD; AND FOR
18 OTHER PURPOSES."

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Subtitle

21 "AN ACT TO AMEND ARK. CODE ANN. § 5-65-202(a)(3) TO
22 BROADEN THE IMPLIED CONSENT PROVISION OF THE DWI STATUTE."

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

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26 SECTION 1. Ark. Code Ann § 5-65-202(a)(3) is amended to read as
27 follows:

28 "(3) At the time the person is arrested for DWI, the law enforcement
29 officer has reasonable cause to believe that the person, while operating or in
30 actual physical control of a motor vehicle, is intoxicated or has one-tenth of
31 one percent (0.10%) or more of alcohol in his or her blood."

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

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

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 All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. It is hereby found and determined by the General Assembly that the provisions of Ark. Code Ann. § 5-65-202(a), as interpreted by the Supreme Court of Arkansas and Arkansas Court of Appeals, are inadequate regarding the conduct of persons whom the General Assembly intended to be subject to the provisions of the implied consent law, in that the courts have construed § 5-65-202(a)(3) to be applicable only where a police officer physically stopped a moving vehicle and possessed reasonable suspicion to believe that the person was DWI prior to the stop, see Roberts v. State, 287 Ark. 451, 701 S.W.2d 112 (1985); Gober v. State, 22 Ark. App. 121, 736 S.W.2d 18 (1987); that § 5-65-202(a)(3) is being amended to implement the General Assembly's intent to have the implied consent law encompass conduct of persons whom police officers have reasonable cause to believe have committed the offense of DWI, at the time such persons are arrested for DWI. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, safety, and welfare shall be in full force and effect from and after its passage and approval.

