

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

A Bill

HOUSE BILL 1244

4 **By: Representatives Steele, Hunton and Rorie**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE OF 1987, ANNOTATED, TITLE
9 5, CHAPTER 65, THE OMNIBUS DWI ACT, TO ADD A NEW SECTION
10 5-65-118 TO PROVIDE FOR THE ADDITIONAL SENTENCING OPTION
11 OF AN AUTOMOBILE IGNITION INTERLOCK SYSTEM FOR VIOLATIONS
12 OF THE DWI LAW, TO PRESCRIBE PENALTIES FOR TAMPERING WITH
13 OR CIRCUMVENTING THE DEVICES, AND TO PROVIDE FOR THE
14 CERTIFICATION OF INTERLOCK SYSTEM MANUFACTURERS; AND FOR
15 OTHER PURPOSES."

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Subtitle

18 "AN ACT TO PROVIDE AN ADDITIONAL SENTENCING OPTION OF AN
19 AUTOMOBILE IGNITION INTERLOCK SYSTEM FOR VIOLATIONS OF THE
20 DWI LAW."

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

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24 SECTION 1. Title 5, Chapter 65, of the Arkansas Code of 1987,
25 Annotated, is hereby amended to add a new Section 5-65-118 to read as follows:

26 "5-65-118. Additional penalties - Ignition interlock devices.

27 (a) In addition to the other penalties authorized for violations of
28 this act, a court may in its discretion, upon finding a person both
29 financially able to afford an interlock device and also upon a finding of
30 guilt or a plea of guilty or nolo contendere for violating § 5-65-103, order
31 the person to operate only a motor vehicle which is equipped with a
32 functioning ignition interlock device, and this restriction may continue for a
33 period of up to one (1) year after such person's license is no longer
34 suspended or restricted under the provisions of § 5-65-104. The court shall
35 establish a specific calibration setting no lower than two-hundredths of one

1 percent (0.02%) nor more than five hundredths of one percent (0.05%) of
2 alcohol in the person_s blood at which the ignition interlock device will
3 prevent the motor vehicle from being started and the period of time that the
4 person shall be subject to the restriction. For the purpose of this section,
5 _ignition interlock device_ means a device which connects a motor vehicle
6 ignition system to a breath-alcohol analyzer and prevents a motor vehicle
7 ignition from starting if a driver_s blood alcohol level exceeds the
8 calibration setting on the device.

9 (b) Upon ordering the use of an ignition interlock device, the court
10 shall:

11 (1) State on the record the requirement for and the period of use
12 of the device, and so notify the Department of Finance and Administration,
13 Office of Driver Services;

14 (2) Direct that the records of the Office of Driver Services
15 reflect:

16 (A) That the person may not operate a motor vehicle that is
17 not equipped with an ignition interlock device; and

18 (B) Whether the court has expressly permitted the person to
19 operate a motor vehicle without an ignition interlock device under subdivision
20 (g)(2) of this section;

21 (3) Direct the Office of Driver Services to attach or imprint a
22 notation on the driver_s license of any person restricted under this section
23 stating that the person may operate only a motor vehicle equipped with an
24 ignition interlock device;

25 (4) Require proof of the installation of the device and periodic
26 reporting by the person for verification of the proper operation of the
27 device;

28 (5) Require the person to have the system monitored for proper
29 use and accuracy by an entity approved by the Arkansas *Department of Health* at
30 least semiannually, or more frequently as the circumstances may require; and

31 (6) Require the person to pay the reasonable cost of leasing or
32 buying, monitoring, and maintaining the device, and may establish a payment
33 schedule therefor.

34 (c) A person sentenced under this section to operate only a motor
35 vehicle that is equipped with an ignition interlock device may not solicit or

1 have another person start or attempt to start a motor vehicle equipped with
2 such a device. Except as provided in subsection (g) of this section, a
3 violation of this subsection is a Class A misdemeanor.

4 (d) A person may not start or attempt to start a motor vehicle equipped
5 with an ignition interlock device for the purpose of providing an operable
6 motor vehicle to a person who is sentenced under this section to operate only
7 a motor vehicle that is equipped with an ignition interlock device. Except as
8 provided in subsection (g) of this section, a violation of this subsection is
9 a Class A misdemeanor.

10 (e) A person may not tamper with, or in any way attempt to circumvent,
11 the operation of an ignition interlock device that has been installed in a
12 motor vehicle. Except as provided in subsection (g) of this section, a
13 violation of this subsection is a Class A misdemeanor.

14 (f) A person may not knowingly provide a motor vehicle not equipped
15 with a functioning ignition interlock device to another person who the
16 provider of the vehicle knows or should know was sentenced to operate only a
17 motor vehicle equipped with an ignition interlock device. Except as provided
18 in subsection (j) of this section, a violation of this subsection is a Class A
19 misdemeanor.

20 (g) Any person found to have violated subsections (c)-(f) of this
21 section is guilty of a Class A misdemeanor; provided, however, that penalty
22 shall not apply if;

23 (1) The starting of a motor vehicle, or the request to start a
24 motor vehicle, equipped with an ignition interlock device is done for the
25 purpose of safety or mechanical repair of the device or the vehicle and the
26 person subject to the court order does not operate the vehicle; or

27 (2) The court finds that a person is required to operate a motor
28 vehicle in the course and scope of the person_s employment and if the vehicle
29 is owned by the employer, the person may operate that vehicle during regular
30 working hours for the purposes of his employment without installation of an
31 ignition interlock device if the employer has been notified of such driving
32 privilege restriction and if proof of that notification is with the vehicle.
33 This employment exemption shall not apply, however, if the business entity
34 that owns the vehicle is owned or controlled by the person who is prohibited
35 from operating a motor vehicle not equipped with an ignition interlock device.

1 (h) The Arkansas *Department of Health* shall certify the ignition
2 interlock systems for use in this state, shall approve the entities which
3 install and monitor the systems, and shall adopt rules and regulations for the
4 certification of the ignition interlock systems and system installation. The
5 regulations shall require the ignition interlock systems to, as a minimum, not
6 impede the safe operation of the vehicle, minimize the opportunities to be
7 bypassed, work accurately and reliably in unsupervised environments, measure,
8 properly and accurately, the person_s blood alcohol levels, minimize the
9 inconvenience to a sober user, and be manufactured by a entity who is
10 responsible for installation, user training, servicing and maintenance of the
11 systems, and who is capable of providing monitoring reports to the courts.
12 The Arkansas *Department of Health* shall develop a warning label to be affixed
13 to all ignition interlock systems used in the state to warn any person of the
14 possible penalties for tampering with or attempting to circumvent the
15 interlock system. The Arkansas *Department of Health* shall publish and update
16 a list of certified ignition interlock manufacturers and of approved ignition
17 interlock system installers and it shall be provided periodically to each
18 municipal and circuit court in the state."

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20 SECTION 2. All provisions of this act of general and permanent nature
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
22 Revision Commission shall incorporate the same in the Code.

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

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

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/s/Railey A. Steele, et al

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