

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Hendrix**

# A Bill

**HOUSE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE SECTION 23-13-258 TO  
9 PROVIDE THAT OPERATORS OF MOTOR VEHICLES SUSCEPTIBLE TO  
10 SAFETY OF OPERATION AND EQUIPMENT REGULATIONS OF THE STATE  
11 HIGHWAY COMMISSION WHILE OPERATING SUCH VEHICLES SHALL BE  
12 SUBJECT TO FINE IF CONVICTED OF POSSESSION OR USE OF ANY  
13 CONTROLLED SUBSTANCE OR POSSESSION OR USE OF ANY  
14 INTOXICATING LIQUOR ALL FOR THE PURPOSES OF COMPLYING  
15 WITH FEDERAL LAWS AND REGULATIONS CONCERNING MOTOR CARRIER  
16 SAFETY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

## Subtitle

18  
19 "TO PROVIDE FINES FOR CERTAIN MOTOR VEHICLE OPERATORS  
20 CONVICTED OF POSSESSION OR USE OF ANY CONTROLLED  
21 SUBSTANCE OR INTOXICATING LIQUOR."

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

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25 SECTION 1. Arkansas Code Section 23-13-258 is hereby amended to read as  
26 follows:

27 "23-13-258. Operation of motor vehicle while in possession of,  
28 consuming, or under influence of any controlled substance or intoxicating  
29 liquor prohibited.

30 (a) Any person operating or being in physical control of a motor  
31 vehicle, which motor vehicle is susceptible at the time of such operation or  
32 physical control to any regulations of the Arkansas State Highway Commission  
33 regarding the safety of operation and equipment of that motor vehicle, who  
34 commits any of the following acts shall be guilty of a misdemeanor and, upon  
35 conviction for the first offense, shall be subject to a fine of not less than

1 two hundred dollars (\$200) nor more than one thousand dollars (\$1,000). Upon  
2 second and subsequent convictions, that person shall be subject to a fine of  
3 not less than five hundred dollars (\$500) nor more than one thousand dollars  
4 (\$1,000);

5 (1) Operating, or being in physical control of, such a motor vehicle if  
6 he possesses, is under the influence of, or is using any 'Controlled  
7 Substance';

8 (2) Operating, or being in physical control of, such a motor vehicle if  
9 he possesses, is under the influence of, or is using any other substance which  
10 renders him incapable of safely operating a motor vehicle;

11 (3) Consumption of, or possession of, an intoxicating liquor,  
12 regardless of its alcoholic content, or being under the influence of an  
13 intoxicating liquor while in physical control of such a motor vehicle,  
14 provided, no person shall be considered in possession of an intoxicating  
15 liquor solely on the basis that an intoxicating liquor or beverage is  
16 manifested and being transported as part of a shipment.

17 (b) For the purposes of this Section, the term 'Controlled Substance'  
18 shall have the same meaning ascribed to that term in the 'Uniform Controlled  
19 Substances Act,' §5-64-101, et seq., and the regulations issued pursuant to  
20 that Act.

21 (c) Nothing in this Section is intended to abrogate any of the  
22 provisions of the 'Omnibus DWI Act', § 5-65-101, et seq., and any person  
23 violating any of the provisions of subsection (a), above, who may be charged  
24 with a violation of the 'Omnibus DWI Act' shall be so charged with a violation  
25 of that Act rather than with a violation of this Section."

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

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

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

SECTION 5. EMERGENCY. It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that the amendments contained in this Act providing fines for operators of certain motor vehicles convicted of possession or use of any "Controlled Substance" or any intoxicating liquor while operating such vehicles are necessary for the purposes of ensuring that this State law is compatible with federal laws and regulations concerning motor carrier safety and only by the immediate effectiveness of this Act may such compatibility be expeditiously accomplished. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after the date of its passage and approval.

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