

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

A Bill

HOUSE BILL 1860

4 **By: Representatives McGee and Mahony**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 5-64-710,
9 5-65-116, 27-16-914, 27-16-915, 27-20-113, AND
10 27-23-112(a) TO PROVIDE FOR THE MANDATORY SUSPENSION OF
11 THE DRIVING PRIVILEGES OF PERSONS FOUND GUILTY OF CERTAIN
12 DRUG OFFENSES IN ORDER TO PREVENT THE LOSS OF FEDERAL-AID
13 HIGHWAY FUNDING TO BE APPORTIONED TO THE STATE FOR THE
14 FEDERAL FISCAL YEAR BEGINNING OCTOBER 1, 1993 AND EACH
15 YEAR THEREAFTER; AND FOR OTHER PURPOSES."

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Subtitle

18 "PROVIDING FOR THE MANDATORY SUSPENSION OF DRIVING
19 PRIVILEGES FOR CERTAIN DRUG OFFENDERS."

20

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

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23 SECTION 1. Arkansas Code Section 5-64-710 is hereby amended to read as
24 follows:

25 "5-64-710. Denial of driving privileges for minor - Restricted permit.

26 (a) As used in this section:

27 (1) 'Drug offense' means the possession, distribution, manufacture,
28 cultivation, sale, transfer, or the attempt or conspiracy to possess,
29 distribute, manufacture, cultivate, sell, or transfer any substance the
30 possession of which is prohibited under the Controlled Substances Act, or the
31 operation of a motor vehicle under the influence of such a substance;

32 (2) 'Substance the possession of which is prohibited under the
33 Controlled Substances Act' or 'Substance', as such phrase and term are
34 utilized in subsection (a)(1), means a controlled or counterfeit chemical, as
35 those terms are defined in subsections 102 (6) and (7) of the Comprehensive

1 Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 802 (6) and (7)
2 listed in 21 C.F.R. §§ 1308.11 through 1308.15]; and

3 (3) 'Motor vehicle', as such term is utilized in subsection (a)(1)
4 means any vehicle which is self-propelled by which persons or things may be
5 transported upon a public highway and is registered in the State of Arkansas
6 or of the type subject to registration in Arkansas, provided, such term shall
7 also mean and include any 'motorcycle', 'motor-driven cycle', or 'motorized
8 bicycle', as such terms are defined in § 27-20-101 and any 'commercial motor
9 vehicle' as defined in §27-23-102.

10 (b) Whenever a person who is less than eighteen (18) years of age
11 pleads guilty or nolo contendere to, or is found guilty of, driving while
12 intoxicated under §5-65-101 et seq., or of any criminal offense involving the
13 illegal possession or use of controlled substances, or of any drug offense, in
14 this state or any other state, or is found by a juvenile court to have
15 committed such an offense, the court having jurisdiction of such matter,
16 including any federal court, shall prepare and transmit to the Department of
17 Finance and Administration an order of denial of driving privileges for the
18 minor. Courts within the State of Arkansas shall prepare and transmit all
19 such orders within twenty-four (24) hours after the plea or finding to that
20 Department. Courts outside Arkansas having jurisdiction over any such person
21 holding driving privileges issued by the State of Arkansas shall prepare and
22 transmit such orders pursuant to agreements or arrangements entered into
23 between that state and the Director of the Department of Finance and
24 Administration. Such arrangements or agreements may also provide for the
25 forwarding by that Department of orders issued by courts within this state to
26 the state wherein any such person holds driving privileges issued by that
27 state. For any such person holding driving privileges issued by the State of
28 Arkansas, courts within this state, in cases of extreme and unusual hardship,
29 may provide in an order for the issuance of a restricted driving permit to
30 allow driving to and from a place of employment or driving to and from school.

31 (c) Penalties prescribed in this section and §27-16-914 shall be in
32 addition to all other penalties prescribed by law for the offenses covered by
33 this section and §27-16-914.

34 (d) In regard to any offense involving illegal possession under this
35 section, it shall be a defense if the controlled substance is the property of

1 an adult who owns the vehicle."

2

3 SECTION 2. Arkansas Code Section 5-65-116 is hereby amended to read as
4 follows:

5 "5-65-116. Denial of driving privileges for minor - Restricted permit.

6 (a) As used in this section, the term 'drug offense' shall have the
7 same meaning ascribed to that term as provided in §5-64-710(a).

8 (b) Whenever a person who is less than eighteen (18) years of age
9 pleads guilty or nolo contendere to, or is found guilty of, driving while
10 intoxicated under §5-65-101 et seq., or of any criminal offense involving the
11 illegal possession or use of controlled substances, or of any drug offense, in
12 this state or any other state, or is found by a juvenile court to have
13 committed such an offense, the court having jurisdiction of such matter,
14 including any federal court, shall prepare and transmit to the Department of
15 Finance and Administration an order of denial of driving privileges for the
16 minor. Courts within the State of Arkansas shall prepare and transmit all
17 such orders within twenty-four (24) hours after the plea or finding to that
18 Department. Courts outside Arkansas having jurisdiction over any such person
19 holding driving privileges issued by the State of Arkansas shall prepare and
20 transmit such orders pursuant to agreements or arrangements entered into
21 between that state and the Director of the Department of Finance and
22 Administration. Such arrangements or agreements may also provide for the
23 forwarding by that Department of orders issued by courts within this state to
24 the state wherein any such person holds driving privileges issued by that
25 state. For any such person holding driving privileges issued by the State of
26 Arkansas, courts within this state, in cases of extreme and unusual hardship,
27 may provide in an order for the issuance of a restricted driving permit to
28 allow driving to and from a place of employment or driving to and from school.

29 (c) Penalties prescribed in this section and §27-16-914 shall be in
30 addition to all other penalties prescribed by law for the offenses covered by
31 this section and §27-16-914.

32 (d) In regard to any offense involving illegal possession under this
33 section, it shall be a defense if the controlled substance is the property of
34 an adult who owns the vehicle."

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1 SECTION 3. Arkansas Code Section 27-16-914 is hereby amended to read as
2 follows:

3 "27-16-914. Suspension of operator's license of minor. Upon receipt of
4 an order of denial of driving privileges under §5-65-116 or §5-64-710, the
5 Department of Finance and Administration shall:

6 (a) Suspend the motor vehicle operator's license of the minor for
7 twelve (12) months or until the minor reaches eighteen (18) years of age,
8 whichever is longer; or

9 (b) In the event the minor's driver's license is under suspension by the
10 Department for another offense or other violations, the minor's driver's
11 license shall be suspended an additional twelve (12) months, or until the
12 minor reaches eighteen (18) years of age, whichever is longer; or

13 (c) If the minor has not been issued a driver's license, the issuance
14 of a license shall be delayed for an additional twelve (12) months after the
15 minor applies for a license, or until the minor reaches eighteen (18) years of
16 age, whichever is longer."
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18 SECTION 4. Arkansas Code Section 27-16-915 is hereby amended to read as
19 follows:

20 "27-16-915. Suspension for conviction of controlled substances offense.

21 (a) As used in this section, the term 'drug offense' shall have the
22 same meaning ascribed to that term as provided in §5-64-710(a).

23 (b)(1) Whenever a person pleads guilty, nolo contendere, or is found
24 guilty of any criminal offense involving the illegal possession or use of
25 controlled substances under §5-64-101 et seq., or of any drug offense, in this
26 state or any other state, the court having jurisdiction of such matter,
27 including any federal court, shall prepare and transmit to the Department of
28 Finance and Administration an order to suspend the driving privileges of the
29 person for six (6) months, provided, any such order regarding a person who is
30 a holder of a commercial driver's license issued under §27-23-101, et seq., or
31 under the laws of any other state, shall include the suspension of the driving
32 privileges of that person to drive any commercial motor vehicle, as the term
33 'commercial motor vehicle' is defined in §27-23-102, or as similarly defined
34 by the laws of any other state, for a period of one (1) year. Courts within
35 the State of Arkansas shall prepare and transmit all such orders within

1 twenty-four (24) hours after the plea or finding to that Department. Courts
2 outside Arkansas having jurisdiction over any such person holding driving
3 privileges issued by the State of Arkansas shall prepare and transmit such
4 orders pursuant to agreements or arrangements entered into between that State
5 and the Director of the Department of Finance and Administration. Such
6 arrangements or agreements may also provide for the forwarding by that
7 Department of orders issued by courts within this state to the state wherein
8 any such person holds driving privileges issued by that state.

9 (2) For any such person holding driving privileges issued by the State
10 of Arkansas, courts within the State of Arkansas in cases of extreme and
11 unusual hardship, may provide in an order for the issuance of a restricted
12 driving permit to allow driving to and from a place of employment or to and
13 from any scheduled sessions or meetings of support organizations, counseling,
14 education, or treatment for persons who have addiction or abuse problems
15 related to any substance or controlled substances.

16 (c) Upon receipt of an order of denial of driving privileges under this
17 section, the Department of Finance and Administration shall:

18 (1) Suspend the driver's license of the person for six (6) months; or

19 (2) In the event the person's driver's license is under suspension by
20 the department for another offense or other violations, the person's driver's
21 license shall be suspended an additional six (6) months; or

22 (3) If the person has not been issued a driver's license, the issuance
23 of a license by the department shall be delayed for an additional six (6)
24 months after the person applies for a license.

25 (d) Upon receipt of an order of denial of driving privileges under this
26 section, which order concerns a person who is a holder of a commercial
27 driver's license issued under §27-23-101, et seq, the Department of Finance
28 and Administration in addition to any actions taken pursuant to subsection (c)
29 shall:

30 (1) Suspend the commercial driver's license of the person for one (1)
31 year; or

32 (2) In the event the person's commercial driver's license is under
33 suspension by the department for another offense or other violations, the
34 person's commercial driver's license shall, in addition to any penalties
35 provided by the laws of this State, be suspended an additional one (1) year;

1 or

2 (3) If the person has not been issued a commercial driver's license,
3 the issuance of such a license by the department shall be delayed for an
4 additional one (1) year period after the person applies for a license.

5 (e) Nothing contained in subsection (d) shall require the issuance or
6 re-issuance of any commercial driver's license to any person following any
7 suspension who is otherwise ineligible pursuant to other laws of this state to
8 obtain such issuance or re-issuance.

9 (f) Penalties prescribed in this section shall be in addition to all
10 other penalties prescribed by law for the offenses covered by this section."

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12 SECTION 5. Arkansas Code Section 27-20-113 is hereby amended to read as
13 follows:

14 "27-20-113. Revocation of operator's license.

15 (a) Whenever the operator of any motorcycle, motor-driven cycle, or
16 motorized bicycle in this state shall have been convicted of three (3) or more
17 moving traffic violations in any twelve-month period, any license issued under
18 this subchapter to that person shall be suspended for not less than *six (6)*
19 *months*.

20 (b) Upon receipt of an order of denial of driving privileges under
21 §5-64-710 or §5-65-116, the Department of Finance and Administration shall:

22 (1) Suspend any license issued the minor under this subchapter for
23 twelve (12) months or until the minor reaches eighteen (18) years of age,
24 whichever is longer; or

25 (2) In the event any license issued the minor under this subchapter is
26 under suspension by the Department for another offense or other violations,
27 that license shall be suspended an additional twelve (12) months, or until the
28 minor reaches eighteen (18) years of age, whichever is longer; or

29 (3) If the minor has not been issued a license under this subchapter,
30 the issuance of a license shall be delayed for an additional twelve (12)
31 months after the minor applies for a license, or until the minor reaches
32 eighteen (18) years of age, whichever is longer.

33 (c) Upon receipt of an order of denial of driving
34 privileges under §27-16-915, the Department of Finance and Administration
35 shall:

1 (1) Suspend any license issued the person under this subchapter for
2 twelve (12) months; or

3 (2) In the event any license issued the person under this subchapter is
4 under suspension by the Department for another offense or other violations,
5 that license shall be suspended an additional twelve (12) months; or

6 (3) If the person has not been issued a license under this subchapter,
7 the issuance of a license shall be delayed for an additional twelve (12)
8 months after the person applies for such a license.

9 (d) Penalties prescribed in this section shall be in addition to all
10 other penalties prescribed by law for offenses covered by this section."

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12 SECTION 6. Subsection (a) of Arkansas Code Section 27-23-112 is hereby
13 amended to read as follows:

14 "(a) DISQUALIFICATION OF OFFENSES. Any person shall be disqualified
15 from driving a commercial motor vehicle for the periods of time set out
16 within, and in accordance with, the provisions of §27-16-915 regarding a
17 holder of a commercial driver's license issued such a license under this
18 chapter, or for a period of not less than one (1) year if convicted of a first
19 violation of:

20 (1) Driving a commercial motor vehicle while intoxicated;

21 (2) Driving a commercial motor vehicle while the person's blood alcohol
22 concentration is 0.04% or more;

23 (3) Leaving the scene of an accident involving a commercial motor
24 vehicle driven by the person;

25 (4) Using a commercial motor vehicle in the commission of any felony as
26 defined in this chapter;

27 (5) Refusal to submit to a test to determine the driver's blood alcohol
28 concentration while driving a commercial motor vehicle. If any of the above
29 violations occurred while transporting a hazardous material required to be
30 placarded, the person shall be disqualified from driving a commercial motor
31 vehicle for a period of not less than three (3) years."

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33 SECTION 7. The Director of the Department of Finance and Administration
34 is authorized to enter into any agreements or arrangements with other states
35 and to take all action deemed necessary or proper, including the making and

1 promulgation of rules and regulations, in order that the amendments contained
2 in this Act may be effectuated.

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4 SECTION 8. All provisions of this Act of general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 9. If any provisions of this Act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 Act are declared to be severable.

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14 SECTION 10. All laws and parts of laws in conflict with this Act are
15 hereby repealed.

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17 SECTION 11. It is hereby found and determined by the Seventy-Ninth
18 General Assembly that federal mandates require the loss of federal highway
19 funds without implementation of a system of suspending the driving privileges
20 of persons holding such privileges granted by this State and found guilty of
21 certain drug offenses, whether such finding occurred in this state or
22 out-of-state, and that additional enforcement provisions are urgently needed
23 to deter persons illegally using or dealing in drugs; that this Act will
24 provide that additional enforcement mechanism; and that this Act should go
25 into effect immediately in order to meet the requirements of the federal law
26 and to grant law enforcement officers and courts greater flexibility in
27 dealing with the illegal use and sale of drugs. Therefore, an emergency is
28 hereby declared to exist and this Act being immediately necessary for the
29 preservation of the public peace, health, and safety, shall be in full force
30 and effect from and after its passage and approval.

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/s/Rep. McGee, et al

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