

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

A Bill

SENATE BILL 64

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 5-65-104(b) CONCERNING A
9 RESTRICTED DRIVER PERMIT IN DWI CASES; AND FOR OTHER
10 PURPOSES."

Subtitle

13 "AN ACT CONCERNING A RESTRICTED DRIVER PERMIT IN DWI
14 CASES."

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

18 SECTION 1. Arkansas Code 5-65-104 is amended to read as follows:

19 "(b) (1) (A) Any person who is found guilty or enters a plea of guilty to
20 an offense under this act may petition the Office of Driver Services that he
21 or she be issued a restricted operator permit for employment-related purposes
22 or to attend a state-required alcohol treatment or education program or, if
23 the person is a full time student, to attend classes at an educational
24 institution.

25 (B) A person shall be ineligible to apply for a restricted
26 operator permit if the offense occurred within three (3) years of a prior
27 offense under this act.

28 (C) A person who is convicted of an offense under this act
29 shall not be deemed ineligible to obtain a restricted operator permit because
30 the person is appealing his or her conviction.

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

35 (3) Such notice shall be given by mailing the notice to the last

1 known address of the person whose operator license is suspended.

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

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

7 (6) The restricted operator permit may be issued if at such
8 hearing it is determined that *based on the overall driving record the issuance*
9 *of a permit would not be detrimental to public safety and:*

10 (A) the offender has no reasonable alternative mode of
11 transportation to and from his or her place of employment, or to a
12 state-required alcohol treatment or education program, or, if the person is a
13 full time student, to and from an educational institution, or that driving of
14 a motor vehicle is an essential part of the offender's work; and

15 (B) the offense did not occur within three (3) years of a
16 prior offense under this act . If the court has required an alcohol treatment
17 or education program that exceeds the length of the suspension under this
18 section, a restricted operator permit may be issued for the purpose of
19 completing the required program. Any person to whom such restricted permit
20 has been issued who shall operate a motor vehicle other than for the purposes
21 and under the conditions prescribed in the permit shall, upon conviction
22 therefor, be imprisoned for ten (10) days."

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

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

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

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/s/ Senator Dowd