

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 1676

5 By: Representatives Bennett, Oglesby, Bledsoe, Roebuck, Clemons, Adams, Childers, Norton, Nichols
6 By: Senators Glover, Faris
7

For An Act To Be Entitled

10 AN ACT TO AMEND ARKANSAS CODE § 5-65-205
11 PERTAINING TO REFUSAL TO SUBMIT TO A CHEMICAL
12 TEST; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT TO AMEND ARKANSAS CODE § 5-65-205
15 PERTAINING TO REFUSAL TO SUBMIT TO A
16 CHEMICAL TEST.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 5-65-205 is amended to read as follows:
23 5-65-205. Refusal to submit.

24 (a)(1) If a person under arrest refuses upon the request of a law
25 enforcement officer to submit to a chemical test designated by the law
26 enforcement agency, as provided in § 5-65-202, none shall be given, and the
27 person's motor vehicle operator's license shall be seized by the law
28 enforcement officer, and the officer shall immediately deliver to the person
29 from whom the license was seized a temporary driving permit, as provided by
30 §5-65-402.

31 (2) Refusal to submit to a chemical test designated by the law
32 enforcement agency is an unclassified misdemeanor.

33 (b) The Office of Driver Services of the Revenue Division of the
34 Department of Finance and Administration shall then proceed to suspend or
35 revoke the driving privilege of the arrested person, as provided in § 5-65-
36 402. The suspension shall be as follows:



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1 (1) Suspension for one hundred eighty (180) days for the first
 2 offense of refusing to submit to a chemical test of blood, breath, or urine
 3 for the purpose of determining the alcohol or controlled substance contents
 4 of the person’s blood or breath. However, if the court orders issuance of an
 5 ignition interlock restricted license under § 5-65-118, the suspension time
 6 for which no restricted license shall be available shall be a minimum of
 7 ninety (90) days. The restricted driving permit provision of § 5-65-120 does
 8 not apply to this suspension;

9 (2) Suspension for two (2) years, during which no restricted
 10 permits may be issued, for a second offense of refusing to submit to a
 11 chemical test of blood, breath, or urine for the purposes of determining the
 12 alcohol or controlled substance contents of the person’s blood or breath
 13 within five (5) years of the first offense;

14 (3) Revocation for three (3) years, during which no restricted
 15 permits may be issued, for the third offense of refusing to submit to a
 16 chemical test of blood, breath, or urine for the purpose of determining the
 17 alcohol or controlled substance contents of the person’s blood within five
 18 (5) years of the first offense; and

19 (4) Lifetime revocation, during which no restricted permit may
 20 be issued, for the fourth or subsequent offense of refusing to submit to a
 21 chemical test of blood, breath, or urine for the purpose of determining the
 22 alcohol or controlled substance contents of the person’s blood or breath
 23 within five (5) years of the first offense.

24 (c) Any person who refuses upon the request of a law enforcement
 25 officer to submit to a chemical test designated by the law enforcement agency
 26 shall be fined:

27 (1) At least one hundred dollars (\$100), but not more than two
 28 hundred and fifty dollars (\$250), for the first refusal;

29 (2) At least two hundred and fifty dollars (\$250), but not more
 30 than five hundred dollars (\$500), for the second refusal occurring within
 31 five (5) years of the first refusal; and

32 (3) At least five hundred dollars (\$500), but not more than one
 33 thousand dollars (\$1,000), for the third or subsequent refusal occurring
 34 within five (5) years of the first refusal.

35 (d)(1) Any person who refuses upon the request of a law enforcement
 36 officer to submit to a chemical test designated by the law enforcement agency

1 may, for a second offense, be imprisoned for at least eight (8) hours, but
 2 not more than twenty-four (24) hours, except that the court may order public
 3 service in lieu of jail, and, in such instance, the court shall include the
 4 reasons for ordering public service in its written order or judgment.

5 (2) Any person who refuses upon the request of a law enforcement
 6 officer to submit to a chemical test designated by the law enforcement agency
 7 shall be imprisoned:

8 (A) At least three (3) days, but not more than five (5)
 9 days, for the third offense occurring within five (5) years of the first
 10 offense;

11 (B) At least five (5) days, but not more than ten (10)
 12 days, for the fourth offense occurring within five (5) years of the first
 13 offense;

14 (C) At least ten (10) days, but not more than twenty (20)
 15 days, for the fifth or subsequent offense occurring within five (5) years of
 16 the first offense.

17 ~~(e)~~(e) For all arrests or offenses occurring before July 30, 1999, but
 18 which have not reached a final disposition as to judgment in court, the
 19 offenses shall be decided under the law in effect at the time the offense
 20 occurred, and any defendant shall be subject to the penalty provisions in
 21 effect at that time and not under ~~the provisions of~~ this section.

22 ~~(d)~~(f) In order to determine the number of previous offenses to
 23 consider when suspending or revoking the arrested person's driving
 24 privileges, the Office of Driver Services shall consider as a previous
 25 offense:

26 (1) Any conviction for offenses of operating or being in actual
 27 physical control of a motor vehicle while intoxicated or in violation of § 5-
 28 65-103 or refusing to submit to a chemical test which occurred prior to July
 29 1, 1996; and

30 (2) Any suspension or revocation of driving privileges for
 31 arrests for a violation of § 5-65-103 or violation of § 5-65-205(a) occurring
 32 on or after July 1, 1996, where the person was subsequently convicted of the
 33 criminal charges.

34 ~~(e)~~(g) If the person is a resident without a license or permit to
 35 operate a motor vehicle in this state, the Office of Driver Services shall,
 36 in addition to any other penalties provided for in this section, deny to that

1 person the issuance of a license or permit for a period of six (6) months for
2 a first offense. For a second or subsequent offense by a resident without a
3 license or permit to operate a motor vehicle, the Office of Driver Services
4 shall, in addition to any other penalties provided for in this section, deny
5 to that person the issuance of a license or permit for a period of one (1)
6 year.

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