

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

*As Engrossed: H3/12/03*

# A Bill

HOUSE BILL 1676

5 By: Representatives Bennett, Oglesby, Bledsoe, Roebuck, Clemons, Adams, Childers, Norton, Nichols,  
6 *Bright, Lamoureux, C. Taylor*

7 By: Senators Glover, Faris, *Womack*  
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## For An Act To Be Entitled

11 AN ACT TO AMEND ARKANSAS CODE § 5-65-205  
12 PERTAINING TO REFUSAL TO SUBMIT TO A CHEMICAL  
13 TEST; AND FOR OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO AMEND ARKANSAS CODE § 5-65-205  
16 PERTAINING TO REFUSAL TO SUBMIT TO A  
17 CHEMICAL TEST.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 5-65-205 is amended to read as follows:  
24 5-65-205. Refusal to submit.

25 (a)(1) If a person under arrest refuses upon the request of a law  
26 enforcement officer to submit to a chemical test designated by the law  
27 enforcement agency, as provided in § 5-65-202, none shall be given, and the  
28 person's motor vehicle operator's license shall be seized by the law  
29 enforcement officer, and the officer shall immediately deliver to the person  
30 from whom the license was seized a temporary driving permit, as provided by  
31 §5-65-402.

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

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



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1 402. The suspension shall be as follows:

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

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

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

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

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

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

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

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

36 (d)(1) Any person who refuses upon the request of a law enforcement

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

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

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

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

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

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

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

27 (1) Any conviction for offenses of operating or being in actual  
28 physical control of a motor vehicle while intoxicated or in violation of § 5-  
29 65-103 or refusing to submit to a chemical test which occurred prior to July  
30 1, 1996; and

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

35 ~~(e)~~(g) If the person is a resident without a license or permit to  
36 operate a motor vehicle in this state, the Office of Driver Services shall,

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

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*/s/ Bennett, et al*