

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: H3/14/03 H3/21/03

A Bill

HOUSE BILL 1981

5 By: Representative Penix
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For An Act To Be Entitled

9 AN ACT TO ENHANCE THE PENALTY FOR DRIVING WHILE
10 INTOXICATED IF A CHILD IS IN THE VEHICLE; AND FOR
11 OTHER PURPOSES.
12
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Subtitle

15 AN ACT TO ENHANCE THE PENALTY FOR
16 DRIVING WHILE INTOXICATED IF A CHILD IS
17 IN THE VEHICLE.
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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 § 5-65-111(a) and (b), concerning prison
23 terms under the Omnibus DWI Act, are amended to read as follows:

24 (a)(1) Any person who pleads guilty or nolo contendere to, or is found
25 guilty of, violating § 5-65-103 may, for a first offense, be imprisoned for
26 no less than twenty-four (24) hours and no more than one (1) year, except
27 that the court may order public service in lieu of jail, and, in ~~such~~ that
28 instance, the court shall include the reasons therefore in its written order
29 or judgment.

30 (2) However, if a passenger under sixteen (16) years of age was
31 in the vehicle at the time of the offense, a person who pleads guilty or nolo
32 contendere to, or is found guilty of, violating § 5-65-103 may, for a first
33 offense, be imprisoned for no fewer than seven (7) days and no more than one
34 (1) year, except that the court may order public service in lieu of jail,
35 and, in that instance, the court shall include the reasons therefore in its
36 written order or judgment.



1 (b) Any person who pleads guilty or nolo contendere to, or is found
2 guilty of, violating § 5-65-103 or any other equivalent penal law of another
3 state or foreign jurisdiction shall be imprisoned or shall be ordered to
4 perform public service in lieu of jail as follows:

5 (1)(A) For no fewer than seven (7) days but no more than one (1)
6 year for the second offense occurring within five (5) years of the first
7 offense or no fewer than thirty (30) days of community service.

8 (B)(i) However, if a person under sixteen (16) years of
9 age was in the vehicle at the time of the offense, for no fewer than thirty
10 (30) days but no more than one (1) year for the second offense occurring
11 within five (5) years of the first offense or no fewer than sixty (60) days
12 of community service.

13 (ii) If the court orders community service, the
14 court shall clearly set forth in written findings the reasons for the order
15 of community service;

16 (2)(A) For no fewer than ninety (90) days but no more than one
17 (1) year for the third offense occurring within five (5) years of the first
18 offense or no fewer than ninety (90) days of community service.

19 (B)(i) If a person under sixteen (16) years of age was in
20 the vehicle at the time of the offense, for no fewer than one hundred twenty
21 days (120) days but no more than one (1) year for the third offense occurring
22 within five (5) years of the first offense or no fewer than one hundred
23 twenty (120) days of community service.

24 (ii) If the court orders community service, the
25 court shall clearly set forth in written findings the reasons for the order
26 of community service;

27 (3)(A) For at least one (1) year but no more than six (6) years
28 for the fourth offense occurring within five (5) years of the first offense
29 or not less than one (1) year of community service and shall be guilty of a
30 felony.

31 (B)(i) However, if a person under sixteen (16) years of
32 age was in the vehicle at the time of the offense, for at least two (2) years
33 but no more than six (6) years for the fourth offense occurring within five
34 (5) years of the first offense or not less than two (2) years of community
35 service and shall be guilty of a felony.

36 (ii) If the court orders community service, the

1 court shall clearly set forth in written findings the reasons for the order
2 of community service; and

3 (4)(A) For at least two (2) years but no more than ten (10)
4 years for the fifth or subsequent offense occurring within five (5) years of
5 the first offense or not less than two (2) years of community service and
6 shall be guilty of a felony.

7 (ii) If the court orders community service, the
8 court shall clearly set forth in written findings the reasons for the order
9 of community service.

10 (B)(i) However, if a person under sixteen (16) years of
11 age was in the vehicle at the time of the offense, for at least three (3)
12 years but no more than ten (10) years for the fifth offense occurring within
13 five (5) years of the first offense or not less than three (3) years of
14 community service and shall be guilty of a felony.

15 (ii) If the court orders community service, the
16 court shall clearly set forth in written findings the reasons for the order
17 of community service.

18 SECTION 2. Arkansas Code § 5-65-111, concerning prison terms under the
19 Omnibus DWI Act, is amended to add an additional subsection to read as
20 follows:

21 (d) It is an affirmative defense to prosecution under subdivisions
22 (a)(2), (b)(1)(B), (b)(2)(B), (b)(3)(B), and (b)(4)(b) of this section that
23 the person operating or in actual physical control of the motor vehicle was
24 not more than two (2) years older than the passenger.

25 /s/ Penix
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