

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: H3/21/03*

# A Bill

HOUSE BILL 2399

5 By: Representative Roebuck  
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7

## For An Act To Be Entitled

9 AN ACT TO AMEND LAWS RELATED TO THE UNLAWFUL  
10 OPERATION OF AIRCRAFT WHILE INTOXICATED TO COVER  
11 CERTAIN COMMERCIAL AIRLINE SITUATIONS; AND FOR  
12 OTHER PURPOSES.  
13

### Subtitle

14 TO AMEND LAWS RELATED TO THE UNLAWFUL  
15 OPERATION OF AIRCRAFT WHILE INTOXICATED  
16 TO COVER CERTAIN COMMERCIAL AIRLINE  
17 SITUATIONS.  
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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 § 5-75-101 is amended to read as follows:  
24 5-75-101. Definitions.

25 As used in this chapter, unless the context otherwise requires:

26 (1) "Intoxicated" means influenced or affected by the ingestion of  
27 alcohol, a controlled substance, any intoxicant, or any combination thereof,  
28 to such a degree that the operator's or navigator's reactions, motor skills,  
29 and judgment are substantially altered and the operator or navigator,  
30 therefore, constitutes a clear and substantial danger of physical injury or  
31 death to himself and other persons;

32 (2)(A) "Controlled substance" means a drug, substance, or immediate  
33 precursor in Schedules I-VI.

34 (B) The fact that any person charged with a violation of this  
35 chapter is or has been entitled to use that drug or controlled substance  
36 under the laws of this state shall not constitute a defense against any



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1 charge of violating this chapter; ~~and~~

2 (3) "Aircraft" means any contrivance invented, used, or designed for  
3 the navigation of or flight in the air, and which is required to be  
4 registered under the laws of the United States-; and

5 (4) "Actual physical control" means:

6 (A) Physically present in the aircraft;

7 (B) Presenting at the security checkpoint at the airport, at the  
8 Security Identification Area, or at an aircraft ramp; or

9 (C) Planning and accepting flight documents at the ticket  
10 counter or gate.

11  
12 SECTION 2. Arkansas Code § 5-75-102 is amended to read as follows:

13 5-75-102. Unlawful acts.

14 (a) It is unlawful and punishable as provided in this chapter for any  
15 person who is intoxicated to operate, navigate, or be in actual physical  
16 control, or to attempt to operate, navigate, or be in actual physical control  
17 of any aircraft.

18 (b) It is unlawful and punishable as provided in this chapter for any  
19 person to operate, navigate, or be in actual physical control of any aircraft  
20 if at that time there was an alcohol concentration of four-hundredths (0.04)  
21 or more in the person's breath or blood as determined by a chemical test of  
22 the person's blood, urine, breath, or other bodily substance.

23 (c)(1) Any person who pleads guilty or nolo contendere to, or is found  
24 guilty of, violating subsection (a) or (b) of this section shall be guilty of  
25 a Class A misdemeanor.

26 (2) For a second offense occurring within one (1) year, any  
27 person who pleads guilty or, nolo contendere to, or is found guilty of,  
28 violating subsection (a) or (b) of this section shall be guilty of a Class D  
29 felony.

30 (3) Any person who pleads guilty or nolo contendere to, or is  
31 found guilty of, violating subsection (a) or (b) of this section and who is a  
32 flight crew member in possession of a weapon shall be guilty of a Class D  
33 felony.

34 (d)(1) If a person under arrest for violating subsection (a) or (b) of  
35 this section refuses upon the request of a law enforcement officer to submit  
36 to a chemical test as provided in § 5-75-103, none shall be given; however,

1 any person who refuses to submit to a chemical test as provided for in § 5-  
2 75-103 shall be guilty of a Class A misdemeanor.

3 (2) For a second offense occurring within one (1) year, any  
4 person who refuses to submit to a chemical test as provided for in § 5-75-103  
5 shall be guilty of a Class D felony.

6 (e) A complete report of all arrests and convictions made under the  
7 provisions of this chapter shall be forwarded to the Federal Aviation  
8 Administration or any other agency responsible for the licensing of pilots or  
9 navigators.

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11 SECTION 3. Arkansas Code § 5-73-120(c), concerning defenses to the  
12 offense of carrying a weapon, is amended to read as follows:

13 (c) It is a defense to a prosecution under this section that at the  
14 time of the act of carrying:

15 (1) The person is in his own dwelling, place of business, or on  
16 property in which he has a possessory or proprietary interest; or

17 (2) The person is a law enforcement officer, prison guard, or  
18 member of the armed forces, acting in the course and scope of his official  
19 duties; or

20 (3) The person is assisting a law enforcement officer, prison  
21 guard, or member of the armed forces acting in the course and scope of  
22 official duties pursuant to the direction or request of the law enforcement  
23 officer, prison guard, or member of the armed forces; or

24 (4) The person is carrying a weapon when upon a journey, unless  
25 the journey is through a commercial airport when presenting at the security  
26 checkpoint in the airport or is in the person's checked baggage and is not a  
27 lawfully declared weapon; or

28 (5) The person is a licensed security guard acting in the course  
29 and scope of his duties; or

30 (6) The person is hunting game with a handgun which may be  
31 hunted with a handgun under rules and regulations of the Arkansas State Game  
32 and Fish Commission or is en route to or from a hunting area for the purpose  
33 of hunting game with a handgun; or

34 (7) The person is a certified law enforcement officer; or

35 (8) The person is in a motor vehicle, and the person has a  
36 license to carry a concealed weapon pursuant to § 5-73-301 et seq.

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*/s/ Roebuck*