

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 S4/1/03

# A Bill

HOUSE BILL 2399

5 By: Representative Roebuck  
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## 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 § 5-75-102 is amended to read as follows:*  
24 *5-75-102. Unlawful acts.*

25 *(a)(1) It is unlawful and punishable as provided in this chapter for*  
26 *any person who is intoxicated to operate, navigate, or be in actual physical*  
27 *control of any aircraft.*

28 *~~(b)(2)~~ It is unlawful and punishable as provided in this chapter*  
29 *for any person to operate, navigate, or be in actual physical control of any*  
30 *aircraft if at that time there was an alcohol concentration of four-*  
31 *hundredths (0.04) or more in the person's breath or blood as determined by a*  
32 *chemical test of the person's blood, urine, breath, or other bodily*  
33 *substance.*

34 *(3) It is unlawful and punishable as provided in this chapter*  
35 *for any person who is at an airport to perform his or her duties as a member*  
36 *of the flight crew of an aircraft and who has an alcohol concentration of*



1 four-hundredths (0.04) or more in the person's breath or blood as determined  
 2 by a chemical test of the person's blood, urine, breath, or other bodily  
 3 substance, to:

4 (A) Present himself or herself at the security checkpoint  
 5 at the airport, at the security identification area, or at an aircraft ramp;  
 6 or

7 (B) Plan and accept flight documents at the ticket counter  
 8 or gate.

9 ~~(e)(1)(b)(1)~~ Any person who pleads guilty or nolo contendere to, or is  
 10 found guilty of, violating subsection (a) ~~or (b)~~ of this section shall be  
 11 guilty of a Class A misdemeanor.

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

16 (3) Any person who pleads guilty or nolo contendere to, or is  
 17 found guilty of, violating subsection (a) of this section and who at the time  
 18 of the offense was a flight crew member and was in possession of a weapon  
 19 shall be guilty of a Class D felony.

20 ~~(d)(1)(c)(1)~~ If a person under arrest for violating subsection (a) or  
 21 (b) of this section refuses upon the request of a law enforcement officer to  
 22 submit to a chemical test as provided in § 5-75-103, none shall be given;  
 23 however, any person who refuses to submit to a chemical test as provided for  
 24 in § 5-75-103 shall be guilty of a Class A misdemeanor.

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

28 ~~(e)(d)~~ A complete report of all arrests and convictions made under the  
 29 provisions of this chapter shall be forwarded to the Federal Aviation  
 30 Administration or any other agency responsible for the licensing of pilots or  
 31 navigators.

32  
 33 SECTION 2. Arkansas Code § 5-73-120(c), concerning defenses to the  
 34 offense of carrying a weapon, is amended to read as follows:

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

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

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

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

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

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

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

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

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

23                                   */s/ Roebuck*  
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