

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: S3/21/03

A Bill

SENATE BILL 713

5 By: Senators Baker, Wilkinson, Hendren
6 By: Representatives Scroggin, Parks, Rankin
7

For An Act To Be Entitled

10 AN ACT TO PROVIDE FOR THE SUSPENSION OF A
11 PERSON'S DRIVER'S LICENSE FOR VIOLATIONS OF THE
12 ARKANSAS HOT CHECK LAW; AND FOR OTHER PURPOSES.
13

Subtitle

15 AN ACT TO PROVIDE FOR THE SUSPENSION OF
16 A PERSON'S DRIVER'S LICENSE FOR
17 VIOLATIONS OF THE ARKANSAS HOT CHECK
18 LAW.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. (a) As used in this section "office" means the Office of
25 Driver Services of the Department of Finance and Administration.

26 (b) At the time a warrant of arrest is issued for a violation of "The
27 Arkansas Hot Check Law", Arkansas Code §§ 5-37-301 through 5-37-306, the
28 clerk of the court issuing the warrant shall notify the office, that the
29 warrant has been issued, together with the offender's name, address, and any
30 other pertinent information which might assist the office.

31 (c) The office shall suspend the driving privilege of the offender, or
32 shall suspend any nonresident driving privilege of an offender, when it
33 receives the notice from the appropriate clerk issuing the warrant that there
34 exists reasonable grounds to believe the offender has violated "The Arkansas
35 Hot Check Law". The suspension shall be based on the number of previous
36 offenses as follows:



1 (1) Suspension for sixty (60) days for the first offense of
2 violating “The Arkansas Hot Check Law”;

3 (2) Suspension for one hundred twenty (120) days for a second
4 offense of violating “The Arkansas Hot Check Law” within any five-year period
5 of the first offense;

6 (3) Suspension for one hundred eighty (180) days for the third
7 offense of violating “The Arkansas Hot Check Law” within any five-year period
8 of the first offense; and

9 (4) Suspension for one (1) year for the fourth or subsequent
10 offense of violating “The Arkansas Hot Check Law” within any five-year
11 period;

12 (d) The office shall then notify the offender by mail that the
13 offender’s motor vehicle operator’s license has been suspended, effective
14 immediately, and direct the offender to immediately surrender his or her
15 license, permit, or other evidence of driving privilege to the office through
16 a local office of the Revenue Division of the Department of Finance and
17 Administration.

18 (e)(1) Upon the written request of a person whose privilege to drive
19 has been suspended, the office shall grant the person an opportunity to be
20 heard provided the request is received by the office within seven (7)
21 calendar days after the notice of the suspension is given in accordance with
22 this section.

23 (2) The request shall not operate to stay the suspension by the
24 office until the disposition of the hearing.

25 (3)(A) The hearing shall be before the office or its authorized
26 agent in the office of the Revenue Division of the Department of Finance and
27 Administration, and may be conducted by telephone conference call.

28 (B) The hearing shall not be recorded.

29 (C) The scope of the hearing shall cover the following
30 issues:

31 (i) Whether the appropriate prosecuting authority
32 had obtained an independent magisterial determination for an arrest warrant
33 for a violation of “The Arkansas Hot Check Law”; and

34 (ii) Whether the suspension was based on a charge
35 filed by the appropriate prosecuting authority.

36 (D) At the hearing, the burden of proof shall be on the

1 state, and the decision shall be based on a preponderance of the evidence.

2 (4) In order to determine the number of previous offenses to
3 consider when suspending the offender's driving privileges, the office shall
4 consider as a previous offense any offense under "The Arkansas Hot Check Law"
5 to which the offender plead guilty or nolo contendere to, or was found guilty
6 of since the effective date of this act.

7 (5) After the hearing, the office or its authorized agent shall
8 order the suspension to be rescinded or sustained.

9 (f)(1) A person adversely affected by the hearing disposition order of
10 the office may file a de novo petition for review within thirty (30) days in
11 the circuit court of the county in which the offender resides, or the Pulaski
12 County Circuit Court.

13 (2) The filing of a petition for review will not stay or place
14 in abeyance the decision of the office or its authorized agent.

15 (3) The administrative hearings held under this section shall be
16 exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

17 (4) On review, the circuit court shall hear the case de novo in
18 order to determine whether, based on a preponderance of the evidence, grounds
19 exist for the suspension of the person's privilege to drive.

20 (g)(1) Any decision rendered at an administrative hearing held under
21 this section shall have no effect on any criminal case arising from any
22 violation of "The Arkansas Hot Check Law".

23 (2) Any decision rendered by a court of law for a criminal case
24 arising from any violation of "The Arkansas Hot Check Law" shall affect the
25 administrative suspension of the driver's license as follows:

26 (A) A plea of guilty or nolo contendere or a finding of
27 guilt by the court will have no effect on any administrative hearing held
28 under this section; and

29 (B) An acquittal on the charges or a dismissal of charges
30 will serve to reverse the suspension of the driver's license suspension,
31 effective immediately.

32 (3) If a person is acquitted of the charges of violating "The
33 Arkansas Hot Check Law", or if the charges are dismissed, the office shall
34 immediately reinstate the person's driver license at no cost to the person,
35 and the charges shall not be used to determine the number of previous
36 offenses when administratively suspending the driving privilege of any

1 arrested person in the future.

2 (h) Any person whose privilege to drive has been suspended shall
3 remain under suspension until granted reinstatement by the office of the
4 privilege to drive, or until he or she is acquitted of violating "The
5 Arkansas Hot Check Law".

6 (i) The administrative suspension of a driver's license under this
7 section shall be supplementary to and in addition to the suspensions or
8 revocations of driver licenses which are ordered by a court of competent
9 jurisdiction for any other traffic or criminal offense for which a suspension
10 of the driver's license is a penalty.

11 (j) All violations of "The Arkansas Hot Check Law" occurring before
12 the effective date of this act, which have not reached a final judgment in
13 court, shall be decided under the law in effect at the time the offense
14 occurred, and any defendant shall be subject to the penalty provisions in
15 effect at that time and not the penalty provisions of this section.

16 (k)(1)(A) The Office of Driver Services shall charge a fee of fifteen
17 dollars (\$15.00) for reinstating a driver's license administratively
18 suspended because of a violation of "The Arkansas Hot Check Law" when the
19 person is not subsequently acquitted of the charge.

20 (B) The fee shall be in addition to any other fee imposed
21 for reinstatement of driving privileges.

22 (2) The revenues derived from this reinstatement fee shall be
23 deposited as special revenues to the State Central Services Fund and credited
24 as direct revenues to be used by the Revenue Division to offset the costs of
25 administering this act.

26 (3) The fee imposed by subsection (k)(1) shall not apply to the
27 reinstatement of driver's licenses suspended by order of a court for a
28 conviction under "The Arkansas Hot Check Law".

29 /s/ Baker
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