

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 85th General Assembly
3 Regular Session, 2005

As Engrossed: S3/7/05
A Bill

SENATE BILL 558

4
5 By: Senator Luker
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8 **For An Act To Be Entitled**

9 AN ACT TO PROVIDE THAT A PERSON HUNTING IN THE
10 STATE OF ARKANSAS HAS GIVEN CONSENT TO A TEST FOR
11 THE PURPOSE OF DETERMINING ALCOHOL OR CONTROLLED
12 SUBSTANCE CONTENT IN THE PERSON'S BLOOD, BREATH,
13 OR URINE; AND FOR OTHER PURPOSES.
14

15 **Subtitle**

16 AN ACT TO PROVIDE THAT A PERSON HUNTING
17 IN THE STATE OF ARKANSAS HAS GIVEN
18 CONSENT TO A TEST FOR THE PURPOSE OF
19 DETERMINING ALCOHOL OR CONTROLLED
20 SUBSTANCE CONTENT IN THE PERSON'S BLOOD,
21 BREATH, OR URINE.
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code Title 15, Chapter 42, Subchapter 1 is amended
27 to add an additional section to read as follows:

28 15-42-127. Implied consent.

29 (a)(1) Subject to the provisions of subsection (c) of this section,
30 any person who purchases a hunting license for use in the State of Arkansas
31 or engages in hunting privileges in this state shall be deemed to have given
32 consent to a chemical test or tests of his or her blood, breath, or urine for
33 the purpose of determining the alcohol or controlled substance content of his
34 or her blood, breath, or urine if the person is involved in a shooting
35 accident while hunting.

36 (2) Any person who is dead, unconscious, or otherwise in a



1 condition rendering the person incapable of refusal to submit to a test of
2 his or her blood, breath, or urine shall be deemed not to have withdrawn the
3 consent provided by subdivision (a)(1) of this section, and the test may be
4 administered subject to the provisions of subsection (c) of this section.

5 (3)(A) When a person who is hunting in this state is involved in
6 a shooting accident resulting in loss of human life or serious bodily injury,
7 a law enforcement officer shall request and the person or persons shall
8 submit to a chemical test or tests of the person's blood, breath, or urine
9 for the purpose of determining the alcohol or controlled substance content of
10 his or her blood, breath, or urine.

11 (B) The law enforcement officer shall cause the test or
12 tests to be administered to the person or persons involved in the shooting
13 accident including a person injured by the shooting and a person who caused
14 the injury by shooting another person.

15 (b) If a person who is hunting is involved in a shooting accident
16 resulting in loss of human life or serious bodily injury and the person
17 refuses to submit to a chemical test under this section upon the request of
18 the law enforcement officer, the person shall be guilty of a violation for
19 refusal to submit and upon conviction:

20 (1) A court shall levy a fine of not less than two thousand five
21 hundred dollars (\$2,500) and not greater than five thousand dollars (\$5,000);
22 and

23 (2) The Arkansas State Game and Fish Commission may suspend or
24 revoke the person's hunting privileges or eligibility to purchase a hunting
25 license for life.

26 (c)(1) The chemical tests required under this section shall be
27 administered at the direction of a law enforcement officer having reasonable
28 cause to believe the person to have been hunting while under the influence of
29 alcohol or a controlled substance.

30 (2)(A) The law enforcement agency by which the officer referred
31 to in subdivision (c)(1) of this section is employed shall designate which of
32 the tests authorized by this section shall be administered, and the agency
33 shall be responsible for paying all expenses incurred in conducting the
34 tests.

35 (B) If a person tested under this section requests that
36 additional tests be made as authorized in subsection (g) of this section, the

1 cost of the additional tests shall be borne by the person tested.

2 (C) If any person objects to the taking of his or her
3 blood for a test as authorized by this section, the breath or urine of the
4 person may be used to make the analysis.

5 (d)(1) To be considered valid under the provisions of this section,
6 chemical analyses of a person's blood, breath, or urine must be performed
7 according to methods approved by the State Board of Health or by an
8 individual possessing a valid permit issued by the Department of Health for
9 that purpose.

10 (2) The Department of Health is authorized to:

11 (A) Approve satisfactory techniques or methods for the
12 chemical analyses of a person's blood, breath, or urine;

13 (B) Ascertain the qualifications and competence of
14 individuals to conduct the analyses; and

15 (C) Issue permits that shall be subject to termination or
16 revocation at the discretion of the Department of Health.

17 (e)(1) When a person submits to a blood test at the request of a law
18 enforcement officer, blood may be drawn by a physician or by a person acting
19 under the direction and supervision of a physician.

20 (2) The limitation of subdivision (e)(1) of this section shall
21 not apply to the taking of breath or urine specimens.

22 (3)(A) No person, institution, or office in this state that
23 withdraws blood for the purpose of determining alcohol or controlled
24 substance content of the blood at the request of a law enforcement officer
25 under this section shall be held liable for violating any of the criminal
26 laws of this state in connection with the withdrawal of blood.

27 (B) A physician, institution, or person acting under the
28 direction or supervision of a physician shall not be held liable in tort for
29 the withdrawal of the blood unless the person or institution is negligent in
30 connection with the withdrawal of blood or the blood is taken over the
31 objections of the subject.

32 (f) Upon the request of a person who submits to a chemical test or
33 tests at the request of a law enforcement officer under this section, full
34 information concerning the test or tests shall be made available to the
35 person or the person's attorney.

36 (g)(1) A person tested may have a physician, qualified technician,

1 registered nurse, or other qualified person of his or her own choice
2 administer a complete chemical test in addition to any test administered at
3 the direction of a law enforcement officer.

4 (2) The law enforcement officer shall advise the person of this
5 right.

6 (3) If a law enforcement officer refuses or fails to advise the
7 person of this right and to permit and assist the person to obtain the test,
8 then the results of the test or tests taken at the direction of the law
9 enforcement officer under this section shall not be admissible into evidence.

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11 */s/ Luker*
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