

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative D. Wood**
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A BILL ACT 643 OF 1991
HOUSE BILL 1881

7 **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE § 27-23-103 TO CLARIFY THE
9 DEFINITIONS OF 'ALCOHOL', 'CONVICTION', 'MOTOR VEHICLE',
10 AND 'SERIOUS TRAFFIC VIOLATION' TO COMPLY WITH FEDERAL
11 REGULATIONS FOR COMMERCIAL DRIVERS LICENSES; TO AMEND
12 ARKANSAS CODE § 27-23-114 TO EMPHASIZE THE PRESENCE OF
13 INTOXICANTS AT MEASURABLE LEVELS TO AFFECT COMMERCIAL
14 DRIVER'S REACTIONS ARE ILLEGAL; TO AMEND ARKANSAS CODE §
15 27-23-115 TO BROADEN THE PENALTY FOR UNLAWFUL REFUSAL TO
16 SUBMIT TO TESTS TO ASCERTAIN INTOXICATION; AND FOR OTHER
17 PURPOSES."
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 27-23-103 is hereby amended to read as
22 follows:

23 "27-23-103. Definitions [Effective January 1, 1990]. As used in this
24 chapter, unless the context otherwise requires:

25 (1) 'Alcohol' or 'alcoholic beverage' means:

26 (a) ethyl alcohol, or ethanol; or

27 (b) beer which is defined as beer, ale, stout, and other similar
28 fermented beverages (including sake or similar products) of any name or
29 description containing one-half of one percent (1/2 of 1%) or more of alcohol
30 by volume, brewed or produced from malt, wholly or in part, or from any
31 substitute therefor; or

32 (c) wine of not less than one-half of one percent (1/2 of 1%)
33 of alcohol by volume; or

34 (d) distilled spirits, alcoholic spirits, and spirits, which are
35 defined as those substances known as ethyl alcohol, ethanol, or spirits of
36 wine in any form (including all dilutions and mixtures thereof from whatever

1 source or by whatever process produced).

2 (2) 'Blood alcohol concentration' means:

3 (a) The number of grams of alcohol per one hundred (100)
4 milliliters of blood; or

5 (b) The number of grams of alcohol per two hundred ten (210)
6 liters of breath; or

7 (c) Blood and breath quantitative measures in accordance with the
8 current Arkansas Regulations for Blood Alcohol Testing, promulgated by the
9 Arkansas State Department of Health.

10 (3) 'Commerce' means:

11 (a) Trade, traffic, and transportation within the jurisdiction of
12 the United States between a place in a state and a place outside of the state,
13 including a place outside the United States; and

14 (b) Trade, traffic, and transportation in the United States which
15 affects any trade, traffic, and transportation within the jurisdiction of the
16 United States between a place in a state and a place outside of the state,
17 including a place outside the United States.

18 (4) 'Commercial driver license' (CDL) means a license issued in
19 accordance with the requirements of this chapter to an individual which
20 authorizes the individual to drive a class of commercial motor vehicle.

21 (5) The 'Commercial Driver License Information System' (CDLIS) is the
22 information system established pursuant to the CMVSA to serve as a
23 clearinghouse for locating information related to the licensing and
24 identification of commercial motor vehicle drivers.

25 (6) 'Commercial driver instruction permit' means a permit issued
26 pursuant to §27-23-109(d).

27 (7) 'Commercial motor vehicle' means a motor vehicle used in commerce
28 designed or used to transport passengers or property:

29 (a) If the vehicle has a gross vehicle weight rating of twenty-
30 six thousand one (26,001 lbs.) pounds or more;

31 (b) If the vehicle is designed to transport sixteen (16) or more
32 passengers, including the driver; or

33 (c) If the vehicle is transporting hazardous materials and is
34 required to be placarded in accordance with 49 C.F.R. part 172, sub-part F;

35 (8) 'Controlled substance' means a drug, substance, or immediate

1 precursor in Schedules I-VI of the Uniform Controlled Substances Act, §§
2 5-64-101 et seq.

3 (9) 'Conviction' means an unvacated adjudication of guilt, or a
4 determination that a person has violated or failed to comply with the law in a
5 court of original jurisdiction or by an authorized administrative tribunal, an
6 unvacated forfeiture of bail or collateral deposited to secure the person's
7 appearance in court, a plea of guilty or nolo contendere accepted by the
8 court, the payment of a fine or court order, or violation of a condition of
9 release without bail, regardless of whether or not the penalty was rebated,
10 suspended, or prorated.

11 (10) 'Disqualification' means a prohibition against driving a
12 commercial motor vehicle.

13 (11) 'Drive' means to drive, operate or be in physical control of a
14 commercial motor vehicle on any public street or highway in the state or in
15 any place open to the general public for purposes of vehicular traffic.

16 (12) 'Driver' means any person who drives, operates, or is in physical
17 control of a commercial motor vehicle on any public street or highway in the
18 state or in any place open to the general public for purposes of vehicular
19 traffic.

20 (13) 'Driver license' means a license issued by a state to an
21 individual which authorizes the individual to drive a motor vehicle.

22 (14) 'Employer' means any person, including the United States, a
23 state, or a political subdivision of a state, who owns or leases a commercial
24 motor vehicle, or assigns a person to drive a commercial motor vehicle.

25 (15) 'Felony' means any offense under state or federal law that is
26 punishable by death or imprisonment for a term exceeding one year.

27 (16) 'Foreign jurisdiction' means any jurisdiction other than a state
28 of the United States.

29 (17) 'Gross vehicle weight rating' (GVWR) means the value specified by
30 the manufacturer(s) as the maximum loaded weight of a single or a combination
31 (articulated) vehicle, or registered gross weight, whichever is greater. The
32 GVWR of a combination (articulated) vehicle (commonly referred to as the
33 'gross combination weight rating' or GCWR) is the GVWR of the power unit plus
34 the GVWR of the towed unit or units.

35 (18) 'Hazardous materials' has the meaning as that found in Section

1 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).

2 (19) 'Motor vehicle' means a vehicle, machine, tractor, trailer, or
3 semitrailer propelled or drawn by mechanical power used on highways, except
4 that the term does not include a vehicle, machine, tractor, trailer,
5 semitrailer operated exclusively on a rail.

6 (20) 'Nonresident CDL' means a commercial driver license issued by a
7 state to an individual who resides in a foreign jurisdiction.

8 (21) 'Out of service order' means a temporary prohibition against
9 driving a commercial motor vehicle.

10 (22) 'Serious traffic violation' means a conviction, when operating a
11 commercial motor vehicle, of:

12 (a) Excessive speeding, involving any single offense for any
13 speed of fifteen (15) miles per hour or more above the posted speed limit; or

14 (b) Reckless driving, as defined by state or local law or
15 regulation, including, but not limited to, offenses of driving a commercial
16 motor vehicle in wilful or wanton disregard for the safety of persons or
17 property; or

18 (c) Improper or erratic traffic lane changes; or

19 (d) Following the vehicle ahead too closely; or

20 (e) A violation, arising in connection with a fatal accident, of
21 state or local law relating to motor vehicle traffic control, other than a
22 parking violation. Serious traffic violations shall not include weight or
23 defect violations.

24 (23) 'State' means a state of the United States and the District of
25 Columbia; and

26 (24) 'United States' means the fifty states and the District of
27 Columbia."

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29 SECTION 2. Subdivision (a)(1) of Arkansas Code § 27-23-114 is hereby
30 amended to read as follows:

31 "(a)(1) It is unlawful and punishable as provided in this chapter for
32 any person who is intoxicated to operate or be in physical control of a
33 commercial motor vehicle. The term 'intoxicated' means influenced or
34 affected by the ingestion of alcohol, a controlled substance, any intoxicant,
35 or any combination thereof, at such measurable level so that the driver's

1 reactions, motor skills, and judgment are substantially altered, and the
2 driver therefore constitutes a clear and substantial danger of physical injury
3 or death to himself and other motorists or pedestrians."
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5 SECTION 3. Arkansas Code § 27-23-115 is hereby amended to read as
6 follows:

7 "27-23-115. Implied consent requirements for commercial motor vehicle
8 drivers [Effective January 1, 1990].

9 (a) A person who drives a commercial motor vehicle within this state
10 shall be deemed to have given consent, subject to the provisions of §5-65-203,
11 to take a test or tests of that person's blood, breath, or urine for the
12 purpose of determining that person's blood alcohol concentration or the
13 presence of other drugs.

14 (b) A test or tests may be administered at the direction of a law
15 enforcement officer who, after stopping or detaining the commercial motor
16 vehicle driver, has probable cause to believe that driver was driving a
17 commercial motor vehicle while having alcohol in his or her system. It shall
18 be unlawful and punishable as provided in this subchapter for any person so
19 stopped or detained to refuse to submit to such test or tests to determine
20 that person's blood alcohol concentration or the presence of other drugs.

21 (c) A person requested to submit to a test as provided in subsection
22 (a) of this section must be warned by the law enforcement officer requesting
23 the test that a refusal to submit to the test will result in that person being
24 disqualified from operating a commercial motor vehicle under §27-23-112.

25 (d) If the person is under arrest and refuses testing, none shall be
26 given and the person's commercial driver license shall be seized by the law
27 enforcement officer, and the officer shall immediately deliver to the person
28 whose license was seized a temporary commercial driving permit which shall
29 expire on the person's date of arraignment and shall cite the person for their
30 refusal to submit to the test.

31 (e) The arresting officer shall remit the seized commercial driver
32 license to the court, and upon arraignment, the judge shall issue that person
33 a temporary commercial driving permit to expire on the date of trial.

34 (f) If the judge determines at trial that the officer had reasonable
35 cause to believe the arrested person has been driving while intoxicated or

1 while there was four hundredths of one percent (0.04%) or more of alcohol in
2 the person's blood and the person refused to submit to the chemical test, the
3 judge shall order the Office of Driver Services to disqualify the person from
4 operating a commercial motor vehicle for a period specified in §27-23-112."

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6 SECTION 4. All provisions of this act of general and permanent nature
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 5. If any provisions of this act or the application thereof to
11 any person or circumstance is held invalid, the invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provisions or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 6. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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/s/D. Wood

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APPROVED: 3-19-91

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