

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# **A Bill**

**ACT 1257 OF 1993**  
**HOUSE BILL 1860**

4 **By: Representatives McGee and Mahony**

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## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 5-64-710,  
9 5-65-116, 27-16-914, 27-16-915, 27-20-113, AND  
10 27-23-112(a) TO PROVIDE FOR THE MANDATORY SUSPENSION OF  
11 THE DRIVING PRIVILEGES OF PERSONS FOUND GUILTY OF CERTAIN  
12 DRUG OFFENSES IN ORDER TO PREVENT THE LOSS OF FEDERAL-AID  
13 HIGHWAY FUNDING TO BE APPORTIONED TO THE STATE FOR THE  
14 FEDERAL FISCAL YEAR BEGINNING OCTOBER 1, 1993 AND EACH  
15 YEAR THEREAFTER; AND FOR OTHER PURPOSES."

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## **Subtitle**

18 "PROVIDING FOR THE MANDATORY SUSPENSION OF DRIVING  
19 PRIVILEGES FOR CERTAIN DRUG OFFENDERS."

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

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SECTION 1. Arkansas Code Section 5-64-710 is hereby amended to read as follows:

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"5-64-710. Denial of driving privileges for minor - Restricted permit.

(a) As used in this section:

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(1) 'Drug offense' means the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or the operation of a motor vehicle under the influence of such a substance;

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(2) 'Substance the possession of which is prohibited under the Controlled Substances Act' or 'Substance', as such phrase and term are utilized in subsection (a)(1), means a controlled or counterfeit chemical, as those terms are defined in subsections 102 (6) and (7) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 802 (6) and (7)]

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1 listed in 21 C.F.R. §§ 1308.11 through 1308.15]; and

2           (3) 'Motor vehicle', as such term is utilized in subsection (a) (1)  
3 means any vehicle which is self-propelled by which persons or things may be  
4 transported upon a public highway and is registered in the State of Arkansas  
5 or of the type subject to registration in Arkansas, provided, such term shall  
6 also mean and include any 'motorcycle', 'motor-driven cycle', or 'motorized  
7 bicycle', as such terms are defined in § 27-20-101 and any 'commercial motor  
8 vehicle' as defined in §27-23-102.

9           (b) Whenever a person who is less than eighteen (18) years of age  
10 pleads guilty or nolo contendere to, or is found guilty of, driving while  
11 intoxicated under §5-65-101 et seq., or of any criminal offense involving the  
12 illegal possession or use of controlled substances, or of any drug offense, in  
13 this state or any other state, or is found by a juvenile court to have  
14 committed such an offense, the court having jurisdiction of such matter,  
15 including any federal court, shall prepare and transmit to the Department of  
16 Finance and Administration an order of denial of driving privileges for the  
17 minor. Courts within the State of Arkansas shall prepare and transmit all  
18 such orders within twenty-four (24) hours after the plea or finding to that  
19 Department. Courts outside Arkansas having jurisdiction over any such person  
20 holding driving privileges issued by the State of Arkansas shall prepare and  
21 transmit such orders pursuant to agreements or arrangements entered into  
22 between that state and the Director of the Department of Finance and  
23 Administration. Such arrangements or agreements may also provide for the  
24 forwarding by that Department of orders issued by courts within this state to  
25 the state wherein any such person holds driving privileges issued by that  
26 state. For any such person holding driving privileges issued by the State of  
27 Arkansas, courts within this state, in cases of extreme and unusual hardship,  
28 may provide in an order for the issuance of a restricted driving permit to  
29 allow driving to and from a place of employment or driving to and from school.

30           (c) Penalties prescribed in this section and §27-16-914 shall be in  
31 addition to all other penalties prescribed by law for the offenses covered by  
32 this section and §27-16-914.

33           (d) In regard to any offense involving illegal possession under this  
34 section, it shall be a defense if the controlled substance is the property of  
35 an adult who owns the vehicle."

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SECTION 2. Arkansas Code Section 5-65-116 is hereby amended to read as follows:

"5-65-116. Denial of driving privileges for minor - Restricted permit.

(a) As used in this section, the term 'drug offense' shall have the same meaning ascribed to that term as provided in §5-64-710(a).

(b) Whenever a person who is less than eighteen (18) years of age pleads guilty or nolo contendere to, or is found guilty of, driving while intoxicated under §5-65-101 et seq., or of any criminal offense involving the illegal possession or use of controlled substances, or of any drug offense, in this state or any other state, or is found by a juvenile court to have committed such an offense, the court having jurisdiction of such matter, including any federal court, shall prepare and transmit to the Department of Finance and Administration an order of denial of driving privileges for the minor. Courts within the State of Arkansas shall prepare and transmit all such orders within twenty-four (24) hours after the plea or finding to that Department. Courts outside Arkansas having jurisdiction over any such person holding driving privileges issued by the State of Arkansas shall prepare and transmit such orders pursuant to agreements or arrangements entered into between that state and the Director of the Department of Finance and Administration. Such arrangements or agreements may also provide for the forwarding by that Department of orders issued by courts within this state to the state wherein any such person holds driving privileges issued by that state. For any such person holding driving privileges issued by the State of Arkansas, courts within this state, in cases of extreme and unusual hardship, may provide in an order for the issuance of a restricted driving permit to allow driving to and from a place of employment or driving to and from school.

(c) Penalties prescribed in this section and §27-16-914 shall be in addition to all other penalties prescribed by law for the offenses covered by this section and §27-16-914.

(d) In regard to any offense involving illegal possession under this section, it shall be a defense if the controlled substance is the property of an adult who owns the vehicle."

SECTION 3. Arkansas Code Section 27-16-914 is hereby amended to read as

1 follows:

2 "27-16-914. Suspension of operator's license of minor. Upon receipt of  
3 an order of denial of driving privileges under §5-65-116 or §5-64-710, the  
4 Department of Finance and Administration shall:

5 (a) Suspend the motor vehicle operator's license of the minor for  
6 twelve (12) months or until the minor reaches eighteen (18) years of age,  
7 whichever is longer; or

8 (b) In the event the minor's driver's license is under suspension by the  
9 Department for another offense or other violations, the minor's driver's  
10 license shall be suspended an additional twelve (12) months, or until the  
11 minor reaches eighteen (18) years of age, whichever is longer; or

12 (c) If the minor has not been issued a driver's license, the issuance  
13 of a license shall be delayed for an additional twelve (12) months after the  
14 minor applies for a license, or until the minor reaches eighteen (18) years of  
15 age, whichever is longer."

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17 SECTION 4. Arkansas Code Section 27-16-915 is hereby amended to read as  
18 follows:

19 "27-16-915. Suspension for conviction of controlled substances offense.

20 (a) As used in this section, the term 'drug offense' shall have the  
21 same meaning ascribed to that term as provided in §5-64-710(a).

22 (b)(1) Whenever a person pleads guilty, nolo contendere, or is found  
23 guilty of any criminal offense involving the illegal possession or use of  
24 controlled substances under §5-64-101 et seq., or of any drug offense, in this  
25 state or any other state, the court having jurisdiction of such matter,  
26 including any federal court, shall prepare and transmit to the Department of  
27 Finance and Administration an order to suspend the driving privileges of the  
28 person for six (6) months, provided, any such order regarding a person who is  
29 a holder of a commercial driver's license issued under §27-23-101, et seq., or  
30 under the laws of any other state, shall include the suspension of the driving  
31 privileges of that person to drive any commercial motor vehicle, as the term  
32 'commercial motor vehicle' is defined in §27-23-102, or as similarly defined  
33 by the laws of any other state, for a period of one (1) year. Courts within  
34 the State of Arkansas shall prepare and transmit all such orders within  
35 twenty-four (24) hours after the plea or finding to that Department. Courts

1 outside Arkansas having jurisdiction over any such person holding driving  
2 privileges issued by the State of Arkansas shall prepare and transmit such  
3 orders pursuant to agreements or arrangements entered into between that State  
4 and the Director of the Department of Finance and Administration. Such  
5 arrangements or agreements may also provide for the forwarding by that  
6 Department of orders issued by courts within this state to the state wherein  
7 any such person holds driving privileges issued by that state.

8       (2) For any such person holding driving privileges issued by the State  
9 of Arkansas, courts within the State of Arkansas in cases of extreme and  
10 unusual hardship, may provide in an order for the issuance of a restricted  
11 driving permit to allow driving to and from a place of employment or to and  
12 from any scheduled sessions or meetings of support organizations, counseling,  
13 education, or treatment for persons who have addiction or abuse problems  
14 related to any substance or controlled substances.

15       (c) Upon receipt of an order of denial of driving privileges under this  
16 section, the Department of Finance and Administration shall:

17       (1) Suspend the driver's license of the person for six (6) months; or

18       (2) In the event the person's driver's license is under suspension by  
19 the department for another offense or other violations, the person's driver's  
20 license shall be suspended an additional six (6) months; or

21       (3) If the person has not been issued a driver's license, the issuance  
22 of a license by the department shall be delayed for an additional six (6)  
23 months after the person applies for a license.

24       (d) Upon receipt of an order of denial of driving privileges under this  
25 section, which order concerns a person who is a holder of a commercial  
26 driver's license issued under §27-23-101, et seq, the Department of Finance  
27 and Administration in addition to any actions taken pursuant to subsection (c)  
28 shall:

29       (1) Suspend the commercial driver's license of the person for one (1)  
30 year; or

31       (2) In the event the person's commercial driver's license is under  
32 suspension by the department for another offense or other violations, the  
33 person's commercial driver's license shall, in addition to any penalties  
34 provided by the laws of this State, be suspended an additional one (1) year;  
35 or

1           (3) If the person has not been issued a commercial driver's license,  
2 the issuance of such a license by the department shall be delayed for an  
3 additional one (1) year period after the person applies for a license.

4           (e) Nothing contained in subsection (d) shall require the issuance or  
5 re-issuance of any commercial driver's license to any person following any  
6 suspension who is otherwise ineligible pursuant to other laws of this state to  
7 obtain such issuance or re-issuance.

8           (f) Penalties prescribed in this section shall be in addition to all  
9 other penalties prescribed by law for the offenses covered by this section."

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11           SECTION 5. Arkansas Code Section 27-20-113 is hereby amended to read as  
12 follows:

13           "27-20-113. Revocation of operator's license.

14           (a) Whenever the operator of any motorcycle, motor-driven cycle, or  
15 motorized bicycle in this state shall have been convicted of three (3) or more  
16 moving traffic violations in any twelve-month period, any license issued under  
17 this subchapter to that person shall be suspended for not less than *six (6)*  
18 *months*.

19           (b) Upon receipt of an order of denial of driving privileges under  
20 §5-64-710 or §5-65-116, the Department of Finance and Administration shall:

21           (1) Suspend any license issued the minor under this subchapter for  
22 twelve (12) months or until the minor reaches eighteen (18) years of age,  
23 whichever is longer; or

24           (2) In the event any license issued the minor under this subchapter is  
25 under suspension by the Department for another offense or other violations,  
26 that license shall be suspended an additional twelve (12) months, or until the  
27 minor reaches eighteen (18) years of age, whichever is longer; or

28           (3) If the minor has not been issued a license under this subchapter,  
29 the issuance of a license shall be delayed for an additional twelve (12)  
30 months after the minor applies for a license, or until the minor reaches  
31 eighteen (18) years of age, whichever is longer.

32           (c) Upon receipt of an order of denial of driving  
33 privileges under §27-16-915, the Department of Finance and Administration  
34 shall:

35           (1) Suspend any license issued the person under this subchapter for

1 twelve (12) months; or

2 (2) In the event any license issued the person under this subchapter is  
3 under suspension by the Department for another offense or other violations,  
4 that license shall be suspended an additional twelve (12) months; or

5 (3) If the person has not been issued a license under this subchapter,  
6 the issuance of a license shall be delayed for an additional twelve (12)  
7 months after the person applies for such a license.

8 (d) Penalties prescribed in this section shall be in addition to all  
9 other penalties prescribed by law for offenses covered by this section."

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11 SECTION 6. Subsection (a) of Arkansas Code Section 27-23-112 is hereby  
12 amended to read as follows:

13 "(a) DISQUALIFICATION OF OFFENSES. Any person shall be disqualified  
14 from driving a commercial motor vehicle for the periods of time set out  
15 within, and in accordance with, the provisions of §27-16-915 regarding a  
16 holder of a commercial driver's license issued such a license under this  
17 chapter, or for a period of not less than one (1) year if convicted of a first  
18 violation of:

19 (1) Driving a commercial motor vehicle while intoxicated;

20 (2) Driving a commercial motor vehicle while the person's blood alcohol  
21 concentration is 0.04% or more;

22 (3) Leaving the scene of an accident involving a commercial motor  
23 vehicle driven by the person;

24 (4) Using a commercial motor vehicle in the commission of any felony as  
25 defined in this chapter;

26 (5) Refusal to submit to a test to determine the driver's blood alcohol  
27 concentration while driving a commercial motor vehicle. If any of the above  
28 violations occurred while transporting a hazardous material required to be  
29 placarded, the person shall be disqualified from driving a commercial motor  
30 vehicle for a period of not less than three (3) years."

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32 SECTION 7. The Director of the Department of Finance and Administration  
33 is authorized to enter into any agreements or arrangements with other states  
34 and to take all action deemed necessary or proper, including the making and  
35 promulgation of rules and regulations, in order that the amendments contained

1 in this Act may be effectuated.

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

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7 SECTION 9. If any provisions of this Act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 Act are declared to be severable.

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13 SECTION 10. All laws and parts of laws in conflict with this Act are  
14 hereby repealed.

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16 SECTION 11. It is hereby found and determined by the Seventy-Ninth  
17 General Assembly that federal mandates require the loss of federal highway  
18 funds without implementation of a system of suspending the driving privileges  
19 of persons holding such privileges granted by this State and found guilty of  
20 certain drug offenses, whether such finding occurred in this state or  
21 out-of-state, and that additional enforcement provisions are urgently needed  
22 to deter persons illegally using or dealing in drugs; that this Act will  
23 provide that additional enforcement mechanism; and that this Act should go  
24 into effect immediately in order to meet the requirements of the federal law  
25 and to grant law enforcement officers and courts greater flexibility in  
26 dealing with the illegal use and sale of drugs. Therefore, an emergency is  
27 hereby declared to exist and this Act being immediately necessary for the  
28 preservation of the public peace, health, and safety, shall be in full force  
29 and effect from and after its passage and approval.

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*/s/Rep. McGee, et al*

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APPROVED: 4/20/93

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