

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H3/3/97 S3/27/97 S4/2/97

A Bill

ACT 1325 OF 1997
HOUSE BILL 1911

5 By: Representatives Wooldridge, Angel, Davis, Jeffress, Magnus, and French
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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 5-65-102 TO PROVIDE A
10 DEFINITION OF A SWORN REPORT AS USED IN OMNIBUS DWI ACT;
11 TO AMEND ARKANSAS CODE § 5-65-104 TO CLARIFY THAT
12 COMPLETION OF AN ALCOHOL EDUCATION PROGRAM IS REQUIRED
13 PRIOR TO REINSTATEMENT OF SUSPENDED DRIVING LICENSE IN
14 CASES OF ADMINISTRATIVE LICENSE REVOCATION; TO AMEND
15 ARKANSAS CODE § 5-65-120 TO PROVIDE FOR CONSIDERATION OF
16 THE DRIVING HISTORY IN DETERMINING WHETHER A TEMPORARY
17 RESTRICTED DRIVING PERMIT SHOULD BE ISSUED TO A DRIVER
18 FOUND GUILTY OF FIRST OFFENSE DWI; TO DECLARE AN
19 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

21 "TO DEFINE SWORN REPORT AS USED IN
22 OMNIBUS DWI ACT AND TO CLARIFY THAT
23 COMPLETION OF AN ALCOHOL EDUCATION
24 PROGRAM IS REQUIRED IN CASES OF
25 ADMINISTRATIVE LICENSE REVOCATION."
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Arkansas Code § 5-65-102 is amended to read as follows:

31 "5-65-102. Definitions.

32 As used in this act, unless the context otherwise requires:

33 (1) Intoxicated means influenced or affected by the ingestion of
34 alcohol, a controlled substance, any intoxicant, or any combination thereof,
35 to such a degree that the driver's reactions, motor skills, and judgment are
36 substantially altered and the driver, therefore, constitutes a clear and

1 substantial danger of physical injury or death to himself and other motorists
2 or pedestrians;

3 (2) Controlled substance means a drug, substance, or immediate
4 precursor in Schedules I through VI. The fact that any person charged with a
5 violation of this act is or has been entitled to use that drug or controlled
6 substance under the laws of this state shall not constitute a defense against
7 any charge of violating this act;

8 (3) Victim impact statement means a voluntary written or oral
9 statement of a victim, or relative of a victim, who has sustained serious
10 injury due to a violation of this act-;

11 (4) Sworn report means a signed, written statement of a certified law
12 enforcement officer, under penalty of perjury, on a form provided by the
13 Director of the Department of Finance and Administration."
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15 SECTION 2. Arkansas Code § 5-65-104 is amended to add new subsection
16 (h) to read as follows:

17 "(h)(1) Any person whose license is suspended or revoked pursuant to
18 this section shall, unless the charges are dismissed or the person is
19 acquitted of the charges upon which the suspension or revocation is based, be
20 required to complete an alcohol education program as prescribed and approved
21 by the Arkansas Highway Safety Program or an alcohol treatment program as
22 approved by the Bureau of Alcohol and Drug Abuse Prevention of the Department
23 of Health. The alcohol education program may collect a program fee of up to
24 fifty dollars (\$50.00) per enrollee to offset program costs. A person
25 required to complete an alcohol education program under this section may be
26 required to pay, in addition to the costs collected for education, a fee of up
27 to twenty-five dollars (\$25.00) to the alcohol education program, to offset
28 the additional costs associated with reporting requirements under this
29 subchapter. The alcohol education program shall report semiannually to the
30 Arkansas Highway Safety Program all revenue derived from this fee.

31 (2) A person whose license is suspended or revoked pursuant to
32 this section shall furnish proof of attendance at, and completion of, the
33 alcoholism treatment or education program before reinstatement of his or her
34 suspended or revoked driver's license, or shall furnish proof of dismissal or
35 acquittal of the charge on which the suspension or revocation is based.

36 (3) Even if a person has filed a de novo petition for review

1 pursuant to subsection (c) of this section, the person shall be entitled to
2 reinstatement of driving privileges upon complying with this subsection and
3 shall not be required to postpone reinstatement until the disposition of the
4 de novo review in circuit court has occurred."

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6 SECTION 3. Arkansas Code § 5-65-120 is amended to read as follows:

7 "5-65-120. Restricted driving permit. [Effective July 1, 1996.]

8 (a) On July 1, 1996, and thereafter, the Office of Driver Services or
9 its designated agent, following the administrative hearing for suspension or
10 revocation of a driver's license as provided for in § 5-65-104, or upon the
11 request of the person whose privilege to drive has been denied or suspended,
12 may modify the denial or suspension in cases of extreme and unusual hardship
13 by the issuance of a restricted driving permit ~~when it is determined by the~~
14 ~~Office of Driver Services or its agent~~ when upon review of the person's
15 driving record for a time period of three (3) years prior to the current
16 suspension or denial of driving privilege it is determined, at the discretion
17 of the Office of Driver Services or its designated agent, that the person is
18 not a multiple traffic law offender or that the person does not present a
19 threat to the general public and that no other adequate means of
20 transportation exists for that person except to allow driving in any or all of
21 the following situations:

- 22 (1) To and from his or her place of employment; or
23 (2) In the course of his or her place of employment; or
24 (3) To and from an educational institution for the purpose of
25 attending classes if the person is enrolled and regularly attending classes at
26 the institution; or
27 (4) To and from the alcohol safety education and treatment course
28 for drunk drivers.

29 (b) The restricted driving permit shall state the specific times and
30 circumstances under which driving is permitted, but shall not be granted where
31 prohibited under § 5-65-104.

32 (c) For all arrests or offenses occurring before July 1, 1996, but
33 which have not reached a final disposition as to judgment in court, the
34 offenses shall be decided under the law in effect at the time the offense
35 occurred, and any defendant shall be subject to the penalty provisions in
36 effect at that time and not under the provisions of this section."

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

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

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

SECTION 7. Emergency. It is hereby found and determined by the Eighty-First General Assembly of the State of Arkansas that current ambiguities in Arkansas law create confusion and possible conflicts which would endanger the enforcement of certain DWI penalties; that enforcement of driving while intoxicated laws serves as an extreme deterrent to that kind of conduct which threatens the health and safety of Arkansas' driving public; and that these clarifications of Arkansas law should take effect immediately to prevent any possible forestalling of the enforcement of Arkansas DWI laws. Therefore, in order to remove the ambiguities in those important laws, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved or vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

/s/Rep. Wooldridge, et al

APPROVED:4-10-97