

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.
Act 1458 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 458

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5 By: Senator T. Smith
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For An Act To Be Entitled

8
9 AN ACT TO CREATE A CRIMINAL OFFENSE PROHIBITING
10 THE OPERATION OF A MOTORBOAT BY AN UNDERAGE
11 PERSON WHILE INTOXICATED; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO CREATE A CRIMINAL OFFENSE
15 PROHIBITING THE OPERATION OF A MOTORBOAT
16 BY AN UNDERAGE PERSON WHILE INTOXICATED.
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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 § 5-76-101 is amended to read as follows:
22 5-76-101. Definitions.

23 As used in this chapter:

24 (1) "Controlled substance" means a drug, substance, or immediate
25 precursor in Schedules I-VI of the Uniform Controlled Substances Act, § 5-64-
26 101 et seq.;

27 (2) "Intoxicated" means influenced or affected by the ingestion
28 of alcohol, a controlled substance, any intoxicant, or any combination
29 thereof, to such a degree that the operator's reactions, motor skills, and
30 judgment are substantially altered and the operator, therefore, constitutes a
31 clear and substantial danger of physical injury or death to himself or
32 others;

33 (3) "Motorboat" means any vessel operated upon water and which
34 is propelled by machinery, whether or not the machinery is the principal
35 source of propulsion;



1 (4) "Operator" means a person who is controlling the speed and
2 direction of a motorboat or a person who is in direct physical control of the
3 motorboat; ~~and~~

4 (5) "Underage" means any person who is under the age of twenty-
5 one (21) years old and therefore may not legally consume alcoholic beverages
6 in Arkansas; and

7 ~~(5)(6)~~ "Waters" means any public waters within the territorial
8 limits of the State of Arkansas.

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10 SECTION 2. Arkansas Code Title 5, Chapter 76, Subchapter 1 is amended
11 to add additional sections to read as follows:

12 5-76-107. Unlawful acts by underage operator.

13 (a) No underage person shall operate any motorboat on the waters of
14 this state while:

15 (1) Intoxicated; or

16 (2) There is an alcohol concentration in the underage person's
17 breath or blood of two-hundredths (0.02) but less than eight-hundredths
18 (0.08) based upon the definition of breath, blood, and urine concentration in
19 § 5-65-204.

20 (b)(1) A certified law enforcement officer may test the underage
21 operator of a motorboat using a portable breath-testing instrument or other
22 approved method to determine if the underage operator may be operating a
23 motorboat or device in violation of this section only if the officer has
24 probable cause to believe that:

25 (A) The underage person is operating the motorboat while
26 intoxicated; or

27 (B) The underage person is operating the motorboat while
28 there is an alcohol concentration of two-hundredths (0.02) but less than
29 eight-hundredths (0.08) in the underage person's breath or blood.

30 (2) The consumption of alcohol or the possession of an open
31 container of an alcoholic beverage aboard a vessel shall not alone constitute
32 probable cause.

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34 5-76-108. Fines.

35 (a) Any person who pleads guilty or nolo contendere to or is found
36 guilty of violating § 5-76-107 shall be fined:

1 (1) No less than one hundred dollars (\$100) and not more than
2 five hundred dollars (\$500) for the first offense;

3 (2) No less than two hundred dollars (\$200) and not more than
4 one thousand dollars (\$1,000) for the second offense; and

5 (3) No less than five hundred dollars (\$500) and not more than
6 two thousand dollars (\$2,000) for the third or subsequent offense.

7 (b) For the purpose of determining the amount of a fine under this
8 section, an underage person who has one (1) or more previous convictions for
9 a violation of § 5-76-102 shall be deemed to have a conviction for a
10 violation of § 5-76-107 for each conviction for a violation of § 5-76-102.

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13 **APPROVED: 3/31/2005**
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