

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 431 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

SENATE BILL 543

4  
5 By: Senator D. Johnson  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT REGARDING CHEMICAL TESTS GIVEN FOR THE  
10 OFFENSE OF DRIVING WHILE INTOXICATED; AND FOR  
11 OTHER PURPOSES.  
12

## Subtitle

13  
14 REGARDING CHEMICAL TESTS GIVEN FOR THE  
15 OFFENSE OF DRIVING WHILE INTOXICATED.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 5-65-202 is amended to read as follows:  
21 5-65-202. Implied consent.

22 (a) Any person who operates a motor vehicle or is in actual physical  
23 control of a motor vehicle in this state is deemed to have given consent,  
24 subject to the provisions of § 5-65-203, to ~~a chemical test~~ one (1) or more  
25 chemical tests of his or her blood, breath, or urine for the purpose of  
26 determining the alcohol or controlled substance content of his or her breath  
27 or blood if:

28 (1) The person is arrested for any offense arising out of an act  
29 alleged to have been committed while the person was driving while intoxicated  
30 or driving while there was an alcohol concentration of eight-hundredths  
31 (0.08) or more in the person's breath or blood;

32 (2) The person is involved in an accident while operating or in  
33 actual physical control of a motor vehicle; or

34 (3) At the time the person is arrested for driving while  
35 intoxicated, the law enforcement officer has reasonable cause to believe that



1 the person, while operating or in actual physical control of a motor vehicle,  
2 is intoxicated or has an alcohol concentration of eight-hundredths (0.08) or  
3 more in the person's breath or blood.

4 (b) Any person who is dead, unconscious, or otherwise in a condition  
5 rendering him or her incapable of refusal is deemed not to have withdrawn the  
6 consent provided by subsection (a) of this section, and ~~a chemical test~~ one  
7 (1) or more chemical tests may be administered subject to the provisions of §  
8 5-65-203.

9  
10 SECTION 2. Arkansas Code § 5-65-203 is amended to read as follows:  
11 5-65-203. Administration.

12 (a) ~~A chemical test~~ One (1) or more chemical tests authorized in § 5-  
13 65-202 shall be administered at the direction of a law enforcement officer  
14 having reasonable cause to believe the person to have been operating or in  
15 actual physical control of a motor vehicle while intoxicated or while there  
16 was an alcohol concentration of eight-hundredths (0.08) or more in the  
17 person's breath or blood.

18 (b)(1) The law enforcement agency by which the law enforcement officer  
19 is employed shall designate which chemical test or chemical tests shall be  
20 administered, and the law enforcement agency is responsible for paying any  
21 expense incurred in conducting the chemical test or chemical tests.

22 (2) If the person tested requests that ~~an~~ additional chemical  
23 test or chemical tests be made, as authorized in § 5-65-204(e), the cost of  
24 the additional chemical test or chemical tests shall be borne by the person  
25 tested, unless the person is found not guilty, in which case the arresting  
26 law enforcement agency shall reimburse the person for the cost of the  
27 additional chemical-test or chemical tests.

28 (3) If any person objects to the taking of his or her blood for  
29 a chemical test, as authorized in this chapter, the breath or urine of the  
30 person may be used to make the chemical analysis.

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32 **APPROVED: 3/13/2009**