

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 922 of the Regular Session**

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

*As Engrossed: H3/20/09*

**A Bill**

HOUSE BILL 1799

5 By: Representative Harrelson  
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7

**For An Act To Be Entitled**

9 AN ACT REGARDING DWI IGNITION INTERLOCK DEVICES;  
10 AND FOR OTHER PURPOSES.  
11

**Subtitle**

12 AN ACT REGARDING DWI IGNITION INTERLOCK  
13 DEVICES.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 5-65-104(a), regarding the permissible uses  
20 for DWI ignition interlock devices, is amended to read as follows:

21 (a)(1) At the time of arrest for operating or being in actual physical  
22 control of a motor vehicle while intoxicated or while there was an alcohol  
23 concentration of eight-hundredths (0.08) or more in the person's breath or  
24 blood, as provided in § 5-65-103, the arrested person shall immediately  
25 surrender his or her license, permit, or other evidence of driving privilege  
26 to the arresting law enforcement officer as provided in § 5-65-402.

27 (2) The Office of Driver Services or its designated official  
28 shall suspend or revoke the driving privilege of an arrested person or shall  
29 suspend any nonresident driving privilege of an arrested person, as provided  
30 in § 5-65-402. The suspension or revocation shall be based on the number of  
31 previous offenses as follows:

32 (A) Suspension for:

33 (i) One hundred twenty (120) days for the first  
34 offense of operating or being in actual physical control of a motor vehicle  
35 while intoxicated or while there was an alcohol concentration of at least



1 eight hundredths (0.08) but less than fifteen hundredths (0.15) by weight of  
2 alcohol in the person's blood or breath, § 5-65-103;

3 (ii) Suspension for six (6) months for the first  
4 offense of operating or being in actual physical control of a motor vehicle  
5 while intoxicated by the ingestion of or by the use of a controlled  
6 substance; and

7 (iii)(a) Suspension for one hundred eighty (180)  
8 days for the first offense of operating or being in actual physical control  
9 of a motor vehicle while intoxicated and while there was an alcohol  
10 concentration of fifteen hundredths (0.15) or more by weight of alcohol in  
11 the person's blood or breath.

12 (b) However, if the office allows the issuance  
13 of an ignition interlock restricted license under § 5-65-118, the ignition  
14 interlock restricted license shall be available immediately.

15 (c) The restricted driving permit provision of  
16 § 5-65-120 does not apply to this suspension;

17 (B)(i) Suspension for twenty-four (24) months for a second  
18 offense of operating or being in actual physical control of a motor vehicle  
19 while intoxicated or while there was an alcohol concentration of eight  
20 hundredths (0.08) or more by weight of alcohol in the person's blood or  
21 breath, § 5-65-103, within five (5) years of the first offense.

22 (ii) However, if the office allows the issuance of  
23 an ignition interlock restricted license under § 5-65-118, the suspension  
24 period for which no restricted license is available is a minimum of ~~one (1)~~  
25 ~~year~~ forty-five (45) days, followed by restricted driving privileges to allow  
26 driving in any and all of the following situations\*:

27 (a) To and from his or her employment;

28 (b) To and from an educational institution for  
29 the purpose of attending class at the educational institution;

30 (c) To and from an alcohol safety education  
31 and treatment course for drunk drivers; or

32 (d) To and from an ignition interlock service.

33 (C)(i) Suspension for thirty (30) months for the third  
34 offense of operating or being in actual physical control of a motor vehicle  
35 while intoxicated or while there was an alcohol concentration of eight  
36 hundredths (0.08) or more by weight of alcohol in the person's blood or

1 breath, § 5-65-103, within five (5) years of the first offense.

2 (ii) However, if the office allows the issuance of  
3 an ignition interlock restricted license under § 5-65-118, the suspension  
4 period for which no restricted license is available is a minimum of ~~one (1)~~  
5 year forty-five (45) days, followed by restricted driving privileges to allow  
6 driving in any and all of the following situations; ~~and~~

7 (a) To and from his or her employment;

8 (b) To and from an educational institution for  
9 the purpose of attending class at the education institution;

10 (c) To and from an alcohol safety education  
11 and treatment course for drunk drivers; or

12 (d) To and from an ignition interlock service.

13 (D) Revocation for four (4) years, during which no  
14 restricted permits may be issued, for the fourth or subsequent offense of  
15 operating or being in actual physical control of a motor vehicle while  
16 intoxicated or while there was an alcohol concentration of eight hundredths  
17 (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-  
18 103, within five (5) years of the first offense.

19 (3) If a person is a resident who is convicted of driving  
20 without a license or permit to operate a motor vehicle and the underlying  
21 basis for the suspension, revocation, or restriction of the license was for a  
22 violation of § 5-65-103, in addition to any other penalties provided for  
23 under law, the *office* may restrict the offender to only an ignition interlock  
24 restricted license for a period of one (1) year prior to the reinstatement or  
25 reissuance of a license or permit after the person would otherwise be  
26 eligible for reinstatement or reissuance of the person's license.

27 (4) In order to determine the number of previous offenses to  
28 consider when suspending or revoking the arrested person's driving  
29 privileges, the office shall consider as a previous offense any of the  
30 following that occurred within the five (5) years immediately before the  
31 current offense:

32 (A) Any conviction for an offense of operating or being in  
33 actual physical control of a motor vehicle while intoxicated or while there  
34 was an alcohol concentration of eight-hundredths (0.08) or more in the  
35 person's breath or blood that occurred:

36 (i) In Arkansas; or

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(ii) In another state;

(B) Any suspension or revocation of driving privileges for an arrest for operating or being in actual physical control of a motor vehicle while intoxicated or while there was an alcohol concentration of eight-hundredths (0.08) or more in the person's breath or blood under § 5-65-103 when the person was not subsequently acquitted of the criminal charges; or

(C) Any conviction under § 5-76-102 for an offense of operating a motorboat on the waters of this state while intoxicated or while there was an alcohol concentration in the person's breath or blood of eight-hundredths (0.08) or more based upon the definition of breath, blood, and urine concentration in § 5-65-204 or refusing to submit to a chemical test under § 5-76-104 occurring on or after July 31, 2007 when the person was not subsequently acquitted of the criminal charges.

*/s/ Harrelson*

**APPROVED: 4/6/2009**