

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: S2/13/17*

# A Bill

HOUSE BILL 1320

5 By: Representative Shepherd  
6 By: Senator Rapert  
7

## For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 5 OF  
10 THE ARKANSAS CODE CONCERNING CRIMINAL OFFENSES AND  
11 THE CRIMINAL LAW; AND FOR OTHER PURPOSES.  
12  
13

### Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 5  
16 OF THE ARKANSAS CODE CONCERNING CRIMINAL  
17 OFFENSES AND THE CRIMINAL LAW.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 5-13-202(c), concerning the criminal  
23 offense of battery in the second degree, is amended to correct a reference  
24 and to read as follows:

25 (c) As used in this section, "motorboat" means the same as defined in  
26 ~~§ 5-76-101 [repealed]~~ § 5-65-102.  
27

28 SECTION 2. Arkansas Code § 5-64-415(h)(2), concerning records of drug  
29 precursors to be kept under the Uniform Controlled Substances Act, is amended  
30 to correct a reference and a grammatical error and to read as follows:

31 (2) Before selling, transferring, or otherwise furnishing to a  
32 person in this state a drug precursor ~~substance subject to subdivision (h)(1)~~  
33 ~~of this section~~, a manufacturer, wholesaler, retailer, or other person shall:

34 (A) If the ~~recipient~~ recipient does not represent a  
35 business, obtain from the recipient:

36 (i) The recipient's driver's license number or other



1 personal identification certificate number, date of birth, and residential or  
 2 mailing address, other than a post office box number, from a driver's license  
 3 or personal identification card issued by the Department of Finance and  
 4 Administration that contains a photograph of the recipient;

5 (ii) The year, state, and number of the motor  
 6 vehicle license of the motor vehicle owned or operated by the recipient;

7 (iii) A complete description of how the ~~substance~~  
 8 drug precursor is to be used; and

9 (iv) The recipient's signature;

10 (B) If the recipient represents a business, obtain from  
 11 the recipient:

12 (i) A letter of authorization from the business that  
 13 includes the business license or comptroller tax identification number,  
 14 address, area code, and telephone number, and a complete description of how  
 15 the drug precursor ~~substance~~ is to be used; and

16 (ii) The recipient's signature; and

17 (C) For any recipient, sign as a witness to the signature  
 18 and identification of the recipient.

19  
 20 SECTION 3. Arkansas Code § 5-64-1004 is amended to read as follows:

21 5-64-1004. Failure to maintain records – Penalty.

22 Failure to maintain accurate records with proper identification from  
 23 the purchaser under this subchapter is ~~considered~~ a Class A misdemeanor.

24  
 25 SECTION 4. Arkansas Code § 5-65-111(a), concerning the sentencing of a  
 26 person convicted of driving or boating while intoxicated, is amended to  
 27 clarify its application and to read as follows:

28 (a)(1)~~(A)~~ A person who pleads guilty or nolo contendere to or is found  
 29 guilty of violating § 5-65-103, for a first offense, is upon conviction  
 30 guilty of an unclassified misdemeanor and may be imprisoned for not less  
 31 than:

32 ~~twenty-four~~

33 (A) Twenty-four (24) hours but no more than one (1) year;

34 or

35 ~~(B) The court may order public service instead of~~  
 36 ~~imprisonment and, if the court orders public service, the court shall include~~

1 ~~the reasons for the order of public service instead of imprisonment in the~~  
2 ~~court's written order or judgment.~~

3 ~~(2)(A) If Seven (7) days but no more than one (1) year if a~~  
4 ~~passenger under sixteen (16) years of age was in the motor vehicle or~~  
5 ~~motorboat at the time of the offense, a person who pleads guilty or nolo~~  
6 ~~contendere to or is found guilty of violating § 5-65-103 is upon conviction~~  
7 ~~guilty of an unclassified misdemeanor and may be imprisoned for not less than~~  
8 ~~seven (7) days but no more than one (1) year.~~

9 ~~(B)(2)~~ The court may order public service instead of  
10 imprisonment and, if the court orders public service, the court shall include  
11 the reasons for the order of public service instead of imprisonment in the  
12 court's written order or judgment.

13  
14 SECTION 5. The introductory language of Arkansas Code § 5-65-  
15 205(b)(2)(A), concerning the criminal offense of refusal to submit to a  
16 chemical test, is amended to correct a reference and to read as follows:

17 (2)(A) A person who refuses to submit to a chemical test of his  
18 or her blood, breath, saliva, or urine for the purpose of determining the  
19 alcohol concentration or controlled substance content of the person's blood  
20 or breath shall have his or her driving privileges:

21  
22 SECTION 6. Arkansas Code § 5-74-107 is amended to remove obsolete  
23 references and correct references and to read as follows:

24 5-74-107. Unlawful discharge of a firearm from a vehicle.

25 (a)(1) A person commits unlawful discharge of a firearm from a vehicle  
26 in the first degree if he or she knowingly discharges a firearm from a  
27 vehicle and by the discharge of the firearm causes death or serious physical  
28 injury to another person.

29 ~~(2) Any person who is guilty of unlawfully discharging a firearm~~  
30 ~~from a vehicle in the first degree commits Unlawful discharge of a firearm~~  
31 ~~from a vehicle in the first degree is a Class Y felony.~~

32 (b)(1) A person commits unlawful discharge of a firearm from a vehicle  
33 in the second degree if he or she recklessly discharges a firearm from a  
34 vehicle in a manner that creates a substantial risk of physical injury to  
35 another person or property damage to a home, residence, or other occupiable  
36 structure.

1 (2) ~~Any person who is guilty of unlawfully discharging a firearm~~  
2 ~~from a vehicle in the second degree commits~~ Unlawful discharge of a firearm  
3 from a vehicle in the second degree is a Class B felony.

4 (c)(1)(A) Any vehicle or property used by the owner, or anyone acting  
5 with the knowledge and consent of the owner, to facilitate a violation of  
6 this section is subject to forfeiture.

7 (B) ~~This~~ Subdivision (c)(1)(A) of this section is a new  
8 and independent ground for forfeiture.

9 (2)(A) Property that is forfeitable based on this section is  
10 forfeited pursuant to and in accordance with the procedures for forfeiture in  
11 ~~§§ 5-64-505 and 5-64-509.~~

12 (B) The reference in subdivision (c)(2)(A) of this section  
13 to §§ 5-64-505 and 5-64-509 is procedural only, and it is not a defense to  
14 forfeiture under this section that the ~~shooting~~ discharge of a firearm did  
15 not involve a controlled substance.

16  
17 SECTION 7. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

18 It is the intent of the General Assembly that:

19 (1) The enactment and adoption of this act shall not expressly  
20 or impliedly repeal an act passed during the regular session of the Ninety-  
21 First General Assembly;

22 (2) To the extent that a conflict exists between an act of the  
23 regular session of the Ninety-First General Assembly and this act:

24 (A) The act of the regular session of the Ninety-First  
25 General Assembly shall be treated as a subsequent act passed by the General  
26 Assembly for the purpose of:

27 (i) Giving the act of the regular session of the  
28 Ninety-First General Assembly its full force and effect; and

29 (ii) Amending or repealing the appropriate parts of  
30 the Arkansas Code of 1987; and

31 (B) Section 1-2-107 shall not apply; and

32 (3) This act shall make only technical, not substantive, changes  
33 to the Arkansas Code of 1987.

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35 /s/Shepherd  
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***APPROVED: 03/03/2017***