

1 State of Arkansas As Engrossed: S2/28/19 S3/25/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

HOUSE BILL 1411

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5 By: Representative Burch

6 By: Senator E. Cheatham

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For An Act To Be Entitled

9 AN ACT CONCERNING THE DEFINITION OF "MOTOR VEHICLE"
10 UNDER THE OMNIBUS DWI OR BWI ACT; CONCERNING A TEST
11 FOR BLOOD ALCOHOL CONTENT WHEN A MOTOR VEHICLE OR
12 BOATING ACCIDENT OCCURS AND DEATH OR SERIOUS BODILY
13 INJURY IS A RESULT OF THE ACCIDENT THAT SHALL BE
14 KNOWN AS "JACOB'S LAW"; AND FOR OTHER PURPOSES.

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Subtitle

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

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SECTION 1. DO NOT CODIFY. Legislative intent.

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(a)(1) It is the intent of the General Assembly to provide for the safety of the public in instances in which serious physical injury occurs on the roadways and waterways of this state as a result of a person's operating a motor vehicle or motorboat while he or she is under the influence of alcohol or a controlled substance.

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(2) A motor vehicle in this instance would include an all-terrain vehicle or agricultural vehicle that is often not operated on the roadways of the state and instead operated in an off-road or agricultural field capacity.

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1 (b) It is not the intent of the General Assembly to provide a way for
2 a law enforcement officer to enter onto private land when the law enforcement
3 officer lacks probable cause or other lawful reasons to enter onto private
4 land.

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6 SECTION 2. Arkansas Code § 5-65-102, concerning definitions used under
7 the Omnibus DWI or BWI Act, is amended to add new subdivisions to read as
8 follows:

9 (10)(A) "Motor vehicle" means a self-propelled, motorized
10 vehicle capable of being operated on a roadway upon or in which a person or
11 property is or may be transported or drawn upon a public or private road or
12 public or private land.

13 (B) "Motor vehicle" includes without limitation:

14 (i) An all-terrain vehicle as defined under § 27-21-
15 102; and

16 (ii) A vehicle designed to be used for agricultural
17 purposes, such as a tractor.

18 (C) "Motor vehicle" does not include:

19 (i) A motor vehicle designed to assist a person with
20 a physical disability with walking;

21 (ii) A motorized scooter or other vehicle designed
22 to be used as a toy by a child;

23 (iii) A bicycle equipped with a small motor designed
24 to assist the bicycle operator and that is not operated at a speed of greater
25 than twenty miles per hour (20 m.p.h.);

26 (iv) A riding lawnmower that is not operated on a
27 public roadway;

28 (v) An electric personal assistive mobility device
29 that is designed to not be capable of a speed of more than twenty miles per
30 hour (20 m.p.h.); or

31 (vi) A device moved by human power or used
32 exclusively upon stationary rails or tracks; and

33 (11) "Serious physical injury" means physical injury that
34 creates a substantial risk of death or that causes protracted disfigurement,
35 protracted impairment of health, or loss or protracted impairment of the
36 function of any bodily member or organ.

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SECTION 3. Arkansas Code § 5-65-208(a), concerning mandatory testing for blood alcohol levels after a motor vehicle or boating accident when a death occurred or may possibly occur, is amended to read as follows:

(a) When the driver of a motor vehicle or operator of a motorboat on the waters of this state is involved in an accident resulting in loss of human life, ~~or~~ when there is reason to believe death may result, or when a person sustains serious physical injury, a chemical test of the driver's or operator's breath, saliva, or urine shall be administered to the driver or operator, even if he or she is fatally injured, to determine the presence of and percentage of alcohol concentration or the presence of a controlled substance, or both, in the driver's or operator's body.

SECTION 4. DO NOT CODIFY. Title
Section 2 of this act shall be known as "Jacob's Law".

/s/Burch

APPROVED: 4/2/19