1 State of Arkansas A Bill **ACT 132 OF 1993** 2 79th General Assembly HOUSE BILL 1120 3 Regular Session, 1993 By: Representatives Parkerson and K. Wood 5 6 For An Act To Be Entitled 7 "AN ACT TO AMEND ARK. CODE ANN. § 5-65-202(a)(3) TO g PROVIDE THAT A PERSON SHALL BE DEEMED TO HAVE GIVEN 9 CONSENT TO A CHEMICAL TEST OF HIS BLOOD, BREATH, OR URINE 10 FOR THE PURPOSE OF DETERMINING THE ALCOHOL OR CONTROLLED SUBSTANCE CONTENT OF HIS OR HER BLOOD IF, AT THE TIME THE 12 PERSON IS ARRESTED FOR DWI, THE LAW ENFORCEMENT OFFICER 13 14 HAS REASONABLE CAUSE TO BELIEVE THAT THE PERSON, WHILE 15 OPERATING OR IN ACTUAL PHYSICAL CONTROL OF A MOTOR 16 VEHICLE, IS INTOXICATED OR HAS ONE-TENTH OF ONE PERCENT 17 (0.10%) OR MORE OF ALCOHOL IN HIS OR HER BLOOD; AND FOR OTHER PURPOSES." 18 19 **Subtitle** 20 "AN ACT TO AMEND ARK. CODE ANN. § 5-65-202(a)(3) TO 21 BROADEN THE IMPLIED CONSENT PROVISION OF THE 22 **DWI STATUTE.**" 23 24 2.5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 26 SECTION 1. Ark. Code Ann § 5-65-202(a)(3) is amended to read as follows: 27 "(3) At the time the person is arrested for DWI, the law enforcement officer has 28 reasonable cause to believe that the person, while operating or in actual physical control of a 29 motor vehicle, is intoxicated or has one-tenth of one percent (0.10%) or more of alcohol in his 31 or her blood." 32 SECTION 2. All provisions of this act of a general and permanent nature are 33 34 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

36

1	SECTION 3. If any provision of this act or the application thereof to any person or
2	$circumstance\ is\ held\ invalid,\ such\ invalidity\ shall\ not\ affect\ other\ provisions\ or\ applications\ of$
3	the act which can be given effect without the invalid provision or application, and to this end
4	the provisions of this act are declared to be severable.
5	
6	SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.
7	
8	SECTION 5. It is hereby found and determined by the General Assembly that the
9	provisions of Ark. Code Ann. § 5-65-202(a), as interpreted by the Supreme Court of Arkansas
10	and Arkansas Court of Appeals, are inadequate regarding the conduct of persons whom the
11	General Assembly intended to be subject to the provisions of the implied consent law, in that
12	the courts have construed \S 5-65-202(a)(3) to be applicable only where a police officer
13	physically stopped a moving vehicle and possessed reasonable suspicion to believe that the
14	person was DWI prior to the stop, see Roberts v. State, 287 Ark. 451, 701 S.W.2d 112 (1985);
15	Gober v. State, 22 Ark. App. 121, 736 S.W.2d 18 (1987); that § 5-65-202(a)(3) is being
16	amended to implement the General Assembly's intent to have the implied consent law
17	encompass conduct of persons whom police officers have reasonable cause to believe have
18	committed the offense of DWI, at the time such persons are arrested for DWI. Therefore, an
19	emergency is hereby declared to exist and this Act being necessary for the immediate
20	preservation of the public peace, health, safety, and welfare shall be in full force and effect from
21	and after its passage and approval.
22	
23	
24	APPROVED: 02/15/93
25	
26	
27	
28	
29	
3 0	
31	