

**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 650 of the Regular Session**

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2554

5 By: Representative D. Johnson
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 5-65-206
10 CONCERNING EVIDENCE IN THE PROSECUTION OF A
11 PERSON CHARGED WITH THE OFFENSE OF DRIVING WHILE
12 INTOXICATED; AND FOR OTHER PURPOSES.
13

Subtitle

14 TO AMEND ARKANSAS CODE § 5-65-206
15 CONCERNING EVIDENCE IN THE PROSECUTION
16 OF A PERSON CHARGED WITH THE OFFENSE OF
17 DRIVING WHILE INTOXICATED.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 5-65-206(d), concerning evidence in the
24 prosecution of a person charged with the offense of driving while
25 intoxicated, is amended to read as follows:

26 (d)(1)(A) Except as provided in subsection (e) of this section, a
27 record or report of a certification, rule, evidence analysis, or other
28 document pertaining to work performed by the Office of Alcohol Testing of the
29 Division of Health of the Department of Health and Human Services under the
30 authority of this chapter shall be received as competent evidence as to the
31 matters contained in the record or report in a court of this state, subject
32 to the applicable rules of criminal procedure when duly attested to by the
33 Director of the Office of Alcohol Testing of the Division of Health of the
34 Department of Health and Human Services or his or her assistant, in the form
35 of an original signature or by certification of a copy.



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(B) These documents are self-authenticating.

(2) However, the instrument performing the chemical analysis shall have been duly certified at least one (1) time in the last three (3) months preceding arrest, and the operator of the instrument shall have been properly trained and certified.

(3) Nothing in this section is deemed to abrogate a defendant's right ~~of cross-examination of~~ to confront the person who performs the calibration test or check on the instrument, the operator of the instrument, or a representative of the office.

(4) The testimony of the appropriate analyst or official may be compelled by the issuance of a proper subpoena by the party who wishes to call the appropriate analyst or official given ten (10) days prior to the date of hearing or trial, in which case the record or report is admissible through the analyst or official, who is subject to cross-examination by the defendant or his or her counsel.

APPROVED: 3/28/2007