

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 1293 of the Regular Session**

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

*As Engrossed: H3/30/09*

**A Bill**

HOUSE BILL 1640

5 By: Representatives Hawkins, Pierce  
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7

**For An Act To Be Entitled**

9 AN ACT TO PROVIDE THAT PERSONS ARRESTED FOR A  
10 FIRST OFFENSE DWI ARE NOT ENTITLED TO A  
11 RESTRICTED PERMIT BUT ARE ALLOWED AN IGNITION  
12 INTERLOCK RESTRICTED LICENSE; TO INCREASE  
13 SUSPENSION TIME FOR A FIRST OFFENSE DWI; TO  
14 REDUCE INELIGIBILITY TIME FOR AN IGNITION  
15 INTERLOCK RESTRICTED LICENSE FOR CERTAIN DWI  
16 OFFENSES; AND FOR OTHER PURPOSES.  
17

**Subtitle**

18 AN ACT REGARDING THE ISSUANCE OF  
19 IGNITION INTERLOCK RESTRICTED LICENSES.  
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21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 *SECTION 1. Arkansas Code § 5-65-104(a)(1) and (a)(2)(A), concerning*  
26 *the issuance of temporary driving permits for first-time DWI offenders, is*  
27 *amended to read as follows:*

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

34 (2) The Office of Driver Services or its designated official  
35 shall suspend or revoke the driving privilege of an arrested person or shall



1 suspend any nonresident driving privilege of an arrested person, as provided  
 2 in § 5-65-402. The suspension or revocation shall be based on the number of  
 3 previous offenses as follows:

4 (A) Suspension for:

5 ~~(i)(a) One hundred twenty (120) days~~ Six (6) months  
 6 for the first offense of operating or being in actual physical control of a  
 7 motor vehicle while intoxicated or while there was an alcohol concentration  
 8 of at least eight hundredths (0.08) ~~but less than fifteen hundredths (0.15)~~  
 9 by weight of alcohol in the person's blood or breath, § 5-65-103~~+~~.

10 (b) If the Office of Driver Services allows  
 11 the issuance of an ignition interlock restricted license under § 5-65-118,  
 12 the ignition interlock restricted license shall be available immediately.

13 (c) The restricted driving permit under § 5-  
 14 65-120 is not allowed for a suspension under this subdivision (a)(2)(A)(i);  
 15 and

16 (ii) Suspension for six (6) months for the first  
 17 offense of operating or being in actual physical control of a motor vehicle  
 18 while intoxicated by the ingestion of or by the use of a controlled  
 19 substance; ~~and~~

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

25 ~~(b) However, if the office allows the issuance~~  
 26 ~~of an ignition interlock restricted license under § 5-65-118, the ignition~~  
 27 ~~interlock restricted license shall be available immediately.~~

28 ~~(c) The restricted driving permit provision of~~  
 29 ~~§ 5-65-120 does not apply to this suspension;~~

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 31  
 32 SECTION 2. Arkansas Code § 5-65-120 is amended to read as follows:

33 5-65-120. Restricted driving permit.

34 (a) Following an administrative hearing for suspension or revocation  
 35 of a driver's license as provided for in § 5-65-402, or upon a request of a  
 36 person whose privilege to drive has been denied or suspended, the Office of

1 Driver Services or its designated agent may modify the denial or suspension  
2 in a case of extreme and unusual hardship by the issuance of a restricted  
3 driving permit when, upon a review of the person's driving record for a time  
4 period of five (5) years prior to the current denial, revocation, or  
5 ~~suspension or denial~~ of driving privilege or a driver's license, at the  
6 discretion of the office or its designated agent it is determined that:

7 (1) The person:

8 (A) Is not a multiple traffic law offender; or

9 (B) Does not present a threat to the general public; and

10 (2) No other adequate means of transportation exists for the  
11 person except to allow driving in any of the following situations:

12 (A) To and from the person's place of employment;

13 (B) In the course of the person's employment;

14 (C) To and from an educational institution for the purpose  
15 of attending a class if the person is enrolled and regularly attending a  
16 class at the institution;

17 (D) To and from the alcohol education and alcoholism  
18 treatment programs for drunk drivers; or

19 (E) To and from a hospital or clinic for medical treatment  
20 or care for an illness, disease, or other medical condition of the person or  
21 a family member.

22 (b) The restricted driving permit shall state the specific times and  
23 circumstances under which driving is permitted.

24 (c) The restricted driving permit shall not be granted to any person  
25 suspended for a second or subsequent offense of violating § 5-65-103, § 5-65-  
26 205, § 5-65-303, or § 5-65-310.

27 ~~(d) For any arrest or offense occurring before July 30, 1999, and the~~  
28 ~~offense has not reached a final disposition as to judgment in court, the~~  
29 ~~offense shall be decided under the law in effect at the time the offense~~  
30 ~~occurred, and any defendant is subject to the penalty provisions in effect at~~  
31 ~~that time and not under the provisions of this section.~~

32  
33 /s/ Hawkins

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35 APPROVED: 4/9/2009