

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 2259

4  
5 By: Representative Cole  
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7

## For An Act To Be Entitled

9 AN ACT INCREASING THE FELONY CLASSIFICATION FOR  
10 NEGLIGENT HOMICIDE; TO PROVIDE FOR LICENSE  
11 SUSPENSION FOR A CONVICTION FOR NEGLIGENT  
12 HOMICIDE; TO PROVIDE FOR A DWI ENHANCEMENT FOR A  
13 CONVICTION FOR NEGLIGENT HOMICIDE; AND FOR OTHER  
14 PURPOSES.

## Subtitle

15  
16 INCREASING THE FELONY CLASSIFICATION FOR  
17 NEGLIGENT HOMICIDE AND PROVIDING FOR A  
18 LICENSE SUSPENSION AND DWI ENHANCEMENT  
19 FOR A CONVICTION FOR NEGLIGENT HOMICIDE.  
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22

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

25 SECTION 1. Arkansas Code § 5-10-105(a), concerning the crime of  
26 negligent homicide, is amended to read as follows:

27 5-10-105. Negligent homicide.

28 (a)(1) A person commits negligent homicide if he or she negligently  
29 causes the death of another person, not constituting murder or manslaughter,  
30 as a result of operating a vehicle, an aircraft, or a watercraft:

31 (A) While intoxicated; or

32 (B)(i) If at that time there is an alcohol concentration  
33 of eight-hundredths (0.08) or more in the person's breath or blood based upon  
34 the definition of breath, blood, and urine concentration in § 5-65-204, as  
35 determined by a chemical test of the person's blood, urine, breath, or other



1   bodily substance.

2                                   (ii) The method of chemical analysis of the person's  
3 blood, urine, or breath shall be made in accordance with §§ 5-65-204 and 5-  
4 65-206; or

5                                   (C) While passing a stopped school bus in violation of §  
6 27-51-1004.

7                                   (2) A person who violates subdivision (a)(1) of this section is  
8 guilty of a Class C B felony.

9

10           SECTION 2. Arkansas Code § 5-65-104(a), concerning the seizure,  
11 suspension, and revocation of a driver's license upon conviction for driving  
12 while intoxicated, is amended to read as follows:

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

19                   (2) The Office of Driver Services or its designated official  
20 shall suspend or revoke the driving privilege of an arrested person or shall  
21 suspend any nonresident driving privilege of an arrested person, as provided  
22 in § 5-65-402. The suspension or revocation shall be based on the number of  
23 previous offenses as follows:

24                                   (A) Suspension for:

25   (i) One hundred twenty (120) days for the first  
26 offense of operating or being in actual physical control of a motor vehicle  
27 while intoxicated or while there was an alcohol concentration of at least  
28 eight hundredths (0.08) but less than fifteen hundredths (0.15) by weight of  
29 alcohol in the person's blood or breath, § 5-65-103;

30   (ii) Suspension for six (6) months for the first  
31 offense of operating or being in actual physical control of a motor vehicle  
32 while intoxicated by the ingestion of or by the use of a controlled  
33 substance; and

34   (iii)(a) Suspension for one hundred eighty (180)  
35 days for the first offense of operating or being in actual physical control  
36 of a motor vehicle while intoxicated and while there was an alcohol

1 concentration of fifteen hundredths (0.15) or more by weight of alcohol in  
 2 the person's blood or breath.

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

6 (c) The restricted driving permit provision of  
 7 § 5-65-120 does not apply to this suspension;

8 (B)(i) Suspension for twenty-four (24) months for a second  
 9 offense of operating or being in actual physical control of a motor vehicle  
 10 while intoxicated or while there was an alcohol concentration of eight  
 11 hundredths (0.08) or more by weight of alcohol in the person's blood or  
 12 breath, § 5-65-103, within five (5) years of the first offense.

13 (ii) However, if the office allows the issuance of  
 14 an ignition interlock restricted license under § 5-65-118, the suspension  
 15 period for which no restricted license is available is a minimum of one (1)  
 16 year;

17 (C)(i) Suspension for thirty (30) months for the third  
 18 offense of operating or being in actual physical control of a motor vehicle  
 19 while intoxicated or while there was an alcohol concentration of eight  
 20 hundredths (0.08) or more by weight of alcohol in the person's blood or  
 21 breath, § 5-65-103, within five (5) years of the first offense.

22 (ii) However, if the office allows the issuance of  
 23 an ignition interlock restricted license under § 5-65-118, the suspension  
 24 period for which no restricted license is available is a minimum of one (1)  
 25 year; and

26 (D) Revocation for four (4) years, during which no  
 27 restricted permits may be issued, for the fourth or subsequent offense of  
 28 operating or being in actual physical control of a motor vehicle while  
 29 intoxicated or while there was an alcohol concentration of eight hundredths  
 30 (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-  
 31 103, within five (5) years of the first offense.

32 (3) If a person is a resident who is convicted of driving  
 33 without a license or permit to operate a motor vehicle and the underlying  
 34 basis for the suspension, revocation, or restriction of the license was for a  
 35 violation of § 5-65-103, in addition to any other penalties provided for  
 36 under law, the office may restrict the offender to only an ignition interlock

1 restricted license for a period of one (1) year prior to the reinstatement or  
2 reissuance of a license or permit after the person would otherwise be  
3 eligible for reinstatement or reissuance of the person's license.

4 (4) In order to determine the number of previous offenses to  
5 consider when suspending or revoking the arrested person's driving  
6 privileges, the office shall consider as a previous offense any of the  
7 following that occurred within the five (5) years immediately before the  
8 current offense:

9 (A) Any conviction for an offense of operating or being in  
10 actual physical control of a motor vehicle while intoxicated or while there  
11 was an alcohol concentration of eight-hundredths (0.08) or more in the  
12 person's breath or blood, including a violation of § 5-10-105(a)(1)(A) or  
13 (B), that occurred:

- 14 (i) In Arkansas; or
- 15 (ii) In another state;

16 (B) Any suspension or revocation of driving privileges for  
17 an arrest for operating or being in actual physical control of a motor  
18 vehicle while intoxicated or while there was an alcohol concentration of  
19 eight-hundredths (0.08) or more in the person's breath or blood under § 5-65-  
20 103 when the person was not subsequently acquitted of the criminal charges;  
21 or

22 (C) Any conviction under § 5-76-102 for an offense of  
23 operating a motorboat on the waters of this state while intoxicated or while  
24 there was an alcohol concentration in the person's breath or blood of eight-  
25 hundredths (0.08) or more based upon the definition of breath, blood, and  
26 urine concentration in § 5-65-204 or refusing to submit to a chemical test  
27 under § 5-76-104 occurring on or after July 31, 2007 when the person was not  
28 subsequently acquitted of the criminal charges.

29  
30 SECTION 3. Arkansas Code § 5-65-111, concerning prison terms upon  
31 conviction for driving while intoxicated, is amended to add a new subsection  
32 to read as follows:

33 (e) A prior conviction for § 5-10-105(a)(1)(A) or (B) is considered a  
34 previous offense for purposes of subsection (b) of this section.

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APPROVED: 3/27/2009