

Department of Finance and Administration

Legislative Impact Statement

Bill: SB81 **Amendment Number: S1**
Bill Subtitle: COMBINING THE OFFENSES OF DRIVING WHILE INTOXICATED AND BOATING WHILE INTOXICATED; CONCERNING THE OMNIBUS DWI ACT, THE UNDERAGE DUI LAW, SUSPENSIONS OF A PERSON'S DRIVER'S LICENSE, AND VEHICLE REGISTRATION.

Basic Change : Sponsors: Sen. Hickey and Rep. Hickerson

This bill as amended with amendment 1 combines the criminal offense of driving while intoxicated (DWI) and boating while intoxicated (BWI) and makes changes to the Omnibus DWI Act, the underage DUI law, administrative suspensions of a person's driver's license and vehicle registration. This amendment clarifies language, makes technical corrections and changes certain provisions in the bill.

Arkansas law requires courts to report convictions within 5 days. Federal law requires convictions to be posted to the driver's record within 10 days of conviction. Prior to amendment, this bill allowed courts up to 30 days to prepare abstract and report convictions. This amendment changes the time allowed to courts to prepare an abstract and report convictions to five (5) business days.

Current law does not provide for a suspension of driving privilege for any offense of BWI, BUI or Refusal in a boat. This law would mandate suspension of driver's license for these offenses. This law would also require administrative hearings to be held for these offenses in addition to the criminal proceeding. Under current law, when a person receives a boating DUI, no action is taken against the person's driving privilege or vehicle registration. However, it is posted to the driver's record and would be considered as a prior offense if that person later gets a DUI in a motor vehicle. This bill as amended requires that the boating be considered a prior offense, but would also require driver license and vehicle registration suspension. Both DUI in a motor vehicle and DUI in a boat would be counted as prior DUI offenses in determining how long a person would lose driving privilege and vehicle registration.

Current law for DWI allows for the issuance of an interlock restricted license, but does not make it mandatory. Currently, if a person cannot afford the interlock device, they may choose not to drive. Prior to amendment this bill provided that the interlock device was mandatory for a period of six (6) months on a first offense of refusal to submit to a chemical test in a boat or a motor vehicle. The amendment deletes this language.

This bill as amended would require driver license suspensions periods for DWI and BWI as follows:

- DWI and BWI will be: 1st offense 6 months. 2nd offense 2 years. 3rd offense 30 months. 4th offense 4 year revocation.
- Underage DUI and BUI will be: 1st offense 90 days. 2nd offense 1 year. 3rd or subsequent revocation until person is age 21 or 3 years, whichever is longer.
- Refusal and boating refusal adult – 1st offense 180 days, 2nd offense 2 years, 3rd offense revocation for 3 years, 4th or subsequent lifetime revocation.
- Underage refusal and underage boating refusal – 1st offense 90 days, 2nd offense 1 year, 3rd or subsequent revocation until age 21 or 3 years, whichever is longer.

This bill as amended would mandate reinstatement requirements to be met prior to the reinstatement of a driver's license for both DWI and BWI as follows:

- DWI and BWI requirements – Alcohol rehabilitation class or treatment, Victim Impact Panel and a \$150.00 reinstatement fee.
- DUI and BUI – Alcohol Rehabilitation or Treatment Class, Victim Impact Panel and a \$25.00 reinstatement fee.
- Motor vehicle or boating refusal – Interlock restricted license for 6 months (1st offense refusal-

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- boating and motor vehicle), Victim Impact Panel and \$150.00 reinstatement fee.
- Underage motor vehicle or boating refusal- Victim impact Panel and \$25.00 reinstatement fee.

This bill as amended authorizes state highway commission enforcement officers to enforce the BWI Act. The bill as amended provides that either a motor vehicle or a motorboat may be subject to seizure and sale if a person pleads guilty or nolo contendere to a fourth or subsequent offense occurring within five (5) years of the first offense.

Revenue Impact :

Revenue will not be significantly impacted since there were only 95 BWI convictions filed with the state during the three (3) year period of January 1, 2012 through December 31, 2014.

Taxpayer Impact :

Taxpayers would be impacted with greater penalties and reinstatement requirements.

Resources Required :

Programming changes will be required. New Administrative License Suspension forms will be required for BWI offenses and must be distributed to law enforcement. Training will be required for Driver Control Hearing Officers and employees to learn new procedures.

Time Required :

There is no emergency clause on this bill. No additional time is required to implement this bill.

Procedural Changes :

Procedures will be developed to implement the new administrative hearings and other new requirements.

Legal Analysis :

Amendment No. 1 to SB81 makes technical corrections to the bill as requested by DFA. These amendments include changing the court reporting requirements of DWI convictions to align with the federal requirement that convictions be reported to the Office of Driver Services within five (5) business days, instead of the originally codified thirty (30) days. Also, this amendment removes the requirement that the Office of Driver Services must issue an ignition interlock license to person suspended for a violation of § 5-65-205 (Refusal to Submit to a Chemical Test) for a period of six (6) months prior to reinstatement of driving privileges. Other changes under this amendment clarify language and correct typographical errors.

This amendment has no effective date or emergency clause.