



*Arkansas
Sentencing
Commission*

**Impact Assessment for HB1180
Sponsored by Representative Vines**

Subtitle TO AMEND THE CRIMINAL OFFENSE OF BATTERY IN THE SECOND DEGREE

Impact Summary¹ Minimal, affecting fewer than 10 offenders per year.

Change from current law² Amends Arkansas Code Annotated § 5-13-202(a)(3)(B) to add operating a motorboat while intoxicated to the conduct subject to a Battery in the second degree charge. Under the proposed bill, a person commits the offense of Battery in the second degree if the person recklessly causes serious physical injury to another person while operating or in actual physical control of a motorboat if at the time the person is intoxicated or the alcohol concentration in the person’s breath or blood is eight-hundredths (0.08) or more based upon the definition of alcohol concentration in § 5-65-204. Amends Arkansas Code Annotated § 5-13-202 to add a new subsection indicating “motorboat” means the same as defined in A.C.A. § 5-76-101. See attached for current code provisions.

Impact Information

This proposed bill adds to the pool of possible offenders who could be charged with Battery in the second degree, a Class D felony.

The US Coast Guard reports that in 2013 there were four (4) boating accidents in Arkansas in which alcohol was a factor and there was a resulting injury or death.

The Arkansas Department of Corrections reports sixteen (16) inmates serving a term of incarceration for violating A.C.A. § 5-13-202(a)(3)(B), Battery in the second degree, as currently written.

¹ This impact assessment was prepared (1/28/15 5:06 PM) by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Correction and the Administrative Office of the Courts. A micro-simulation model may be used for bills which have the potential for significant impact on correctional resources. The following designations will be used: “minimal” = less than 10 offenders per year will be affected; “medium” = would require budgetary increases for ADC inmate costs; and “major” = would require budgetary increases for ADC inmate costs and construction costs for additional beds.

² Standard punishment ranges:

Class Y 10-40 years or life
Class A 6-30 years; up to \$15,000
Class B 5-20 years; up to \$15,000

Class C 3-10 years; up to \$10,000
Class D 0-6 years; up to \$10,000
Unclassified As specified in statute

Misdemeanors
Class A Up to 1 year; up to \$2,500
Class B Up to 90 days; up to \$1,000
Class C Up to 30 days; up to \$500

A.C.A. § 5-13-202. Battery in the second degree.

(a) A person commits battery in the second degree if:

(1) With the purpose of causing physical injury to another person, the person causes serious physical injury to another person;

(2) With the purpose of causing physical injury to another person, the person causes physical injury to another person by means of a deadly weapon other than a firearm;

(3) The person recklessly causes serious physical injury to another person:

(A) By means of a deadly weapon; or

(B) While operating or in actual physical control of a motor vehicle if at the time:

(i) The person is intoxicated; or

(ii) The alcohol concentration in the person's breath or blood is eight-hundredths (0.08) or more based upon the definition of alcohol concentration in § 5-65-204; or

(4) The person knowingly, without legal justification, causes physical injury to or incapacitates a person he or she knows to be:

(A) (i) A law enforcement officer, firefighter, code enforcement officer, or employee of a correctional facility while the law enforcement officer, firefighter, code enforcement officer, or employee of a correctional facility is acting in the line of duty.

(ii) As used in this subdivision (a)(4)(A):

(a) (1) "Code enforcement officer" means an individual charged with the duty of enforcing a municipal code, municipal ordinance, or municipal regulation as defined by a municipal code, municipal ordinance, or municipal regulation.

(2) "Code enforcement officer" includes a municipal animal control officer; and

(b) "Employee of a correctional facility" includes a person working under a professional services contract with the Department of Correction, the Department of Community Correction, or the Division of Youth Services of the Department of Human Services;

(B) A teacher or other school employee while acting in the course of employment;

(C) An individual sixty (60) years of age or older or twelve (12) years of age or younger;

(D) An officer or employee of the state while the officer or employee of the state is acting in the performance of his or her lawful duty;

(E) While performing medical treatment or emergency medical services or while in the course of other employment relating to his or her medical training:

(i) A physician;

(ii) A person licensed as emergency medical services personnel, as defined in § 20-13-202;

(iii) A licensed or certified health care professional; or

(iv) Any other health care provider; or

(F) An individual who is incompetent, as defined in § 5-25-101.

(b) Battery in the second degree is a Class D felony.

HISTORY: Acts 1975, No. 280, § 1602; 1981, No. 877, § 1; 1983, No. 12, § 1; A.S.A. 1947, § 41-1602; Acts 1995, No. 1173, § 1; 1995, No. 1305, § 2; 1995, No. 1338, § 1; 1997, No. 207, § 1; 1997, No. 878, § 1; 1999, No. 389, § 1; 2003, No. 66, § 1; 2007, No. 827, § 27; 2009, No. 344, § 1; 2009, No. 689, § 1; 2011, No. 1120, § 6; 2011, No. 1168, § 1; 2013, No. 429, § 1.

A.C.A. 5-76-101. Definitions.

As used in this chapter:

(1) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I-VI of the Uniform Controlled Substances Act, § 5-64-101 et seq.;

(2) "Intoxicated" means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant, or any combination of alcohol, a controlled substance, or intoxicant, to such a degree that the operator's reactions, motor skills, and judgment are substantially altered and the operator constitutes a clear and substantial danger of physical injury or death to himself, herself, or others;

(3) (A) "Motorboat" means any vessel operated upon water and that is propelled by machinery, whether or not the machinery is the principal source of propulsion.

(B) "Motorboat" includes personal watercraft as defined in § 27-101-103(10);

(4) "Operator" means a person who is controlling the speed and direction of a motorboat or a person who is in direct physical control of the motorboat;

(5) "Underage" means any person who is under twenty-one (21) years of age and may not legally consume alcoholic beverages in Arkansas; and

(6) "Waters" means any public waters within the territorial limits of the State of Arkansas.

HISTORY: Acts 1995, No. 518, § 1; 2005, No. 1458, § 1; 2009, No. 693, § 1.