

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/10/99 S4/7/99

A Bill

Act 1468 of 1999
HOUSE BILL 1680

5 By: Representatives Glover, Cook, Hale, Harris, *Magnus, T. Thomas, Parks, Allison, Lancaster,*
6 *Rackley, Elliott*
7
8

For An Act To Be Entitled

9
10 "AN ACT TO ENHANCE THE PENALTIES FOR MULTIPLE DWI
11 OFFENDERS; AND FOR OTHER PURPOSES."
12

Subtitle

13
14 "AN ACT TO ENHANCE THE PENALTIES FOR
15 MULTIPLE DWI OFFENDERS."
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code 5-65-104 is amended to read as follows:

21 "5-65-104. Seizure, suspension, and revocation of license - Temporary
22 permits - Ignition interlock restricted license.

23 (a)(1) At the time of arrest for operating or being in actual physical
24 control of a motor vehicle while intoxicated or while there was one-tenth of
25 one percent (0.1%) or more by weight of alcohol in the person's blood, § 5-65-
26 103, or refusing to submit to a chemical test of blood, breath, or urine for
27 the purpose of determining the alcohol or controlled substance contents of the
28 person's blood, § 5-65-202, the arrested person shall immediately surrender
29 his license, permit, or other evidence of driving privilege to the arresting
30 law enforcement officer. The officer shall seize the license, permit, or other
31 evidence of driving privilege surrendered by the arrested person or found on
32 the arrested person during a search.

33 (2) If the license, permit, or other evidence of driving
34 privilege seized by the officer has not expired and otherwise appears valid to
35 the officer, the officer shall issue to the arrested person a dated receipt
36 for that license, permit, or other evidence of driving privilege on a form

1 prescribed by the Department of Finance and Administration or its designee.
2 This receipt shall be recognized as a license and shall authorize the arrested
3 person to operate a motor vehicle for a period not to exceed thirty (30) days.
4 The receipt form shall contain and shall constitute a notice of suspension or
5 revocation of driving privileges by the Office of Driver Services of the
6 Revenue Division of the Department of Finance and Administration, effective in
7 thirty (30) days, notice of the right to a hearing within twenty (20) days,
8 and as notice that, if a hearing is to be requested, the hearing request is
9 required to be made within seven (7) calendar days of the notice being given.
10 The receipt shall also contain details and phone numbers of the Office of
11 Driver Services telling how to request the hearing. If the Office of Driver
12 Services is unable to conduct a hearing within the twenty-day period, a
13 temporary permit shall be issued and shall be valid until the date of the
14 hearing. The seized license, permit, or other evidence of driving privilege
15 and a copy of the receipt form issued to the arrested person shall be attached
16 to the sworn report of the arresting officer and shall be submitted by mail or
17 in person to the Director of the Department of Finance and Administration or
18 his designated representative within seven (7) days of the issuance of the
19 receipt. The failure of the arresting officer to timely file this report shall
20 not affect the authority of the Office of Driver Services to suspend or revoke
21 the driving privilege of the arrested person.

22 (3) Any notices from the Office of Driver Services required under
23 this act which are not personally delivered shall be sent by certified mail
24 and shall be deemed to have been delivered on the date when postmarked and
25 shall be sent to the last known address on file with the Office of Driver
26 Services. Refusal of the addressee to accept delivery or attempted delivery of
27 the notice at the address obtained by the arresting law enforcement officer or
28 on file with the Office of Driver Services shall not constitute nonreceipt of
29 notice. For all notices which are personally delivered, the person shall be
30 asked to sign a receipt acknowledging he received the required notice.

31 (4) The Office of Driver Services of the Revenue Division of the
32 Department of Finance and Administration or its designated official shall
33 suspend or revoke the driving privilege of an arrested person or shall suspend
34 any nonresident driving privilege of an arrested person when it receives a
35 sworn report from the law enforcement officer that he had reasonable grounds
36 to believe the arrested person had been operating or was in actual physical

1 control of a motor vehicle while intoxicated or while there was one-tenth of
 2 one percent (0.1%) or more by weight of alcohol in the person's blood, § 5-65-
 3 103, which is accompanied by a written chemical test report reflecting that
 4 the arrested person was intoxicated or had an alcohol concentration of one-
 5 tenth of one percent (0.1%) or more, or is accompanied by a sworn report that
 6 the arrested person refused to submit to a chemical test of blood, breath, or
 7 urine for the purpose of determining the alcohol or controlled substance
 8 contents of the person's blood, as provided in § 5-65-202. The suspension or
 9 revocation shall be based on the number of previous offenses as follows:

10 (A)(i) Suspension for *one hundred twenty (120) days* for the
 11 first offense of operating or being in actual physical control of a motor
 12 vehicle while intoxicated or while there was at least one-tenth of one percent
 13 (0.1%) or more but less than eighteen hundredths of one percent (0.18%) by
 14 weight of alcohol in the person's blood, § 5-65-103;

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

18 (iii) Suspension for *one hundred eighty (180) days*
 19 for the first offense of refusing to submit to a chemical test of blood,
 20 breath, or urine for the purpose of determining the alcohol or *controlled*
 21 *substance contents of the person's blood, § 5-65-202, provided however, that*
 22 *if the court orders issuance of an ignition interlock restricted license under*
 23 *§ 5-65-118, the suspension period for which no restricted license shall be*
 24 *available shall be a minimum of ninety (90) days;*

25 (iv) Suspension for one hundred eighty (180) days for
 26 the first offense of operating or being in actual physical control of a motor
 27 vehicle while intoxicated and while there was eighteen one hundredths of one
 28 percent (0.18%) or more by weight of alcohol in the person's blood, provided
 29 however, that if the court orders issuance of an ignition interlock restricted
 30 license under §5-65-118, the suspension period for which no restricted license
 31 shall be available shall be a minimum of thirty (30) days;

32 (B)(i) Suspension for *sixteen (16) months, during which no*
 33 ~~*restricted permits may be issued,*~~ for a second offense of operating or being
 34 in actual physical control of a motor vehicle while intoxicated or while there
 35 was one-tenth of one percent (0.1%) or more by weight of alcohol in the
 36 person's blood, § 5-65-103, within ~~three (3)~~ five (5) years of the first

1 offense, provided however, that if the court orders issuance of an ignition
 2 interlock restricted license under § 5-65-118, the suspension period for which
 3 no restricted license shall be available shall be a minimum of one (1) year;

4 (ii) Suspension for two (2) years, during which no
 5 restricted permits may be issued, for a second offense of refusing to submit
 6 to a chemical test of blood, breath, or urine for the purposes of determining
 7 the alcohol or controlled substance contents of the person's blood, § 5-65-
 8 202, within ~~three (3)~~ five (5) years of the first offense;

9 (C)(i) Suspension for *thirty (30) months*, ~~during which no~~
 10 ~~restricted permits may be issued~~, for the third offense of operating or being
 11 in actual physical control of a motor vehicle while intoxicated or while there
 12 was one-tenth of one percent (0.1%) or more by weight of alcohol in the
 13 person's blood, § 5-65-103, within ~~three (3)~~ five (5) years of the first
 14 offense, provided however, that if the court orders issuance of an ignition
 15 interlock restricted license under § 5-65-118, the suspension period for which
 16 no restricted license shall be available shall be a minimum of one year;

17 (ii) Revocation for three (3) years, during which no
 18 restricted permits may be issued, for the third offense of refusing to submit
 19 to a chemical test of blood, breath, or urine for the purpose of determining
 20 the alcohol or controlled substance contents of the person's blood, § 5-65-
 21 202, within ~~three (3)~~ five (5) years of the first offense;

22 (D)(i) Revocation for four (4) years, during which no
 23 restricted permits may be issued, for the fourth or subsequent offense of
 24 operating or being in actual physical control of a motor vehicle while
 25 intoxicated or while there was one-tenth of one percent (0.1%) or more by
 26 weight of alcohol in the person's blood, § 5-65-103, within ~~a three-year~~
 27 ~~period~~ five (5) years of the first offense.

28 (ii) Lifetime revocation, during which no restricted
 29 permit may be issued, for the fourth or subsequent offense of refusing to
 30 submit to a chemical test of blood, breath, or urine for the purpose of
 31 determining the alcohol or controlled substance contents of the person's
 32 blood, § 5-65-202, within ~~three (3)~~ five (5) years of the first offense; and

33 (5)(A) If the person is a resident without a license or permit to
 34 operate a motor vehicle in this state, the Office of Driver Services shall, in
 35 addition to any other penalties provided for in this act, deny to that person
 36 the issuance of a license or permit for a period of six (6) months for a first

1 offense. For a second or subsequent offense by a resident without a license or
2 permit to operate a motor vehicle in this state, the Office of Driver Services
3 shall, in addition to any other penalties provided for in this act, deny to
4 that person the issuance of a license or permit for a period of one (1) year.

5 (B) If a person is a resident who is convicted of driving
6 without a license or permit to operate a motor vehicle and the underlying
7 basis for the suspension, revocation, or restriction of the license was for a
8 violation of § 5-65-103, the court may order, in addition to any other
9 penalties provided for under law, that the Office of Driver Services only
10 issue an ignition interlock restricted permit for a period of one (1) year
11 prior to the reinstatement or reissuance of a license or permit after the
12 person would otherwise be eligible for reinstatement or reissuance of the
13 person's license.

14 (6)(A) If the person is a nonresident, such person's privilege to
15 operate a motor vehicle in Arkansas shall be suspended in the same manner as
16 that of a resident. The Office of Driver Services shall notify the office that
17 issued the nonresident's motor vehicle license of the action taken by the
18 Office of Driver Services.

19 (B) When the person is a nonresident without a license or
20 permit to operate a motor vehicle, the Office of Driver Services shall notify
21 the office of issuance for that person's state of residence of action taken by
22 the Office of Driver Services.

23 (7) Upon the written request of a person whose privilege to drive
24 has been revoked, denied, or suspended, or who has received a notice of
25 revocation, suspension, or denial by the arresting officer, the Office of
26 Driver Services shall grant the person an opportunity to be heard provided the
27 request is received by the Office of Driver Services within seven (7) calendar
28 days after the notice of the revocation, suspension, or denial is given in
29 accordance with this section or as otherwise provided in this act. Such a
30 request shall not operate to stay the revocation, suspension, or denial by the
31 Office of Driver Services until the disposition of said hearing.

32 (8)(A) The hearing shall be before the Office of Driver Services
33 or its authorized agent, in the office of the Revenue Division of the
34 Department of Finance and Administration nearest the county wherein the
35 alleged events occurred for which the person was arrested, unless the Office
36 of Driver Services or its authorized agent and the arrested person agree

1 otherwise to the hearing being held in some other county or the Office of
2 Driver Services or its authorized agent may schedule the hearing or any part
3 thereof by telephone and conduct the hearing by telephone conference call. The
4 hearing shall not be recorded. The scope of the hearing shall cover the issues
5 of whether the officer had reasonable grounds to believe the person had been
6 operating or was in actual physical control of a vehicle while intoxicated or
7 while there was one-tenth of one percent (0.1%) or more by weight of alcohol
8 in the person's blood or refused to submit to a chemical test of the blood,
9 breath, or urine for the purpose of determining the alcohol or controlled
10 substance contents of the person's blood and whether the person was placed
11 under arrest. At the hearing, the burden of proof shall be on the state, and
12 the decision shall be based on a preponderance of the evidence.

13 (B) If the revocation, suspension, or denial is based upon
14 a chemical test result indicating that the person was intoxicated or there was
15 one-tenth of one percent (0.1%) or more by weight of alcohol in the person's
16 blood, as provided in § 5-65-103, and a sworn report from a law enforcement
17 officer, the scope of the hearing shall also cover the issues as to whether:

18 (i) The person was advised that his privilege to
19 drive would be revoked, suspended, or denied if the test result reflected an
20 alcohol concentration of one-tenth of one percent (0.1%) or more or the
21 presence of other intoxicating substances or combination of intoxicating
22 substances;

23 (ii) The breath, blood, or urine specimen was
24 obtained from the person within the established and certified criteria of the
25 Department of Health;

26 (iii) The testing procedures used were in accordance
27 with existing rules; and

28 (iv) The test result in fact reflects an alcohol
29 concentration, presence of other intoxicating substances, or a combination
30 thereof.

31 (C) If the revocation, suspension, or denial is based upon
32 the refusal of the person to submit to a chemical test as provided in § 5-65-
33 202, reflected in a sworn report by a law enforcement officer, the scope of
34 the hearing shall also include whether:

35 (i) The person refused to submit to the test or
36 tests; and

1 (ii) The person was informed that his privilege to
2 drive would be revoked, suspended, or denied if the person refused to submit
3 to the test or tests.

4 (9) In order to determine the number of previous offenses to
5 consider when suspending or revoking the arrested person's driving privileges,
6 the Office of Driver Services shall consider as a previous offense:

7 (A) Any convictions for offenses of operating or being in
8 actual physical control of a motor vehicle while intoxicated or while there is
9 one-tenth of one percent (0.1%) or more by weight of alcohol in the person's
10 blood under § 5-65-103 or refusing to submit to a chemical test under § 5-65-
11 202 which occurred prior to July 1, 1996; and

12 (B) Any suspension or revocation of driving privileges for
13 arrests for operating or being in actual physical control of a motor vehicle
14 while intoxicated or while there is one-tenth of one percent (0.1%) or more by
15 weight of alcohol in the person's blood under § 5-65-103 or refusing to submit
16 to a chemical test under § 5-65-202 occurring on or after July 1, 1996, where
17 the person was not subsequently acquitted of the criminal charges.

18 (b) After the hearing, the Office of Driver Services or its authorized
19 agent shall order the revocation, suspension, or denial to be rescinded or
20 sustained and shall then advise any person whose license is revoked,
21 suspended, or denied that he or she may request a restricted permit as
22 otherwise provided for by this act.

23 (c) A person adversely affected by the hearing disposition order of the
24 Office of Driver Services of the Revenue Division of the Department of Finance
25 and Administration or its authorized agent may file a de novo petition for
26 review within thirty (30) days in the circuit court in the county in which the
27 offense took place. The filing of a petition for review will not stay or place
28 in abeyance the decision of the Office of Driver Services or its authorized
29 agent. The administrative hearings held pursuant to this section shall be
30 exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq. On
31 review, the circuit court shall hear the case de novo in order to determine
32 whether, based on a preponderance of the evidence, grounds exist for
33 revocation, suspension, or denial of the person's privilege to drive.

34 (d)(1) Any decision rendered at an administrative hearing held under
35 this section shall have no effect on any criminal case arising from any
36 violation of § 5-65-103 or § 5-65-202.

1 (2) Any decision rendered by a court of law for a criminal case
2 arising from any violation of § 5-65-103 or § 5-65-202 shall affect the
3 administrative suspensions or revocation of the driver's license as follows:

4 (A) A plea of guilty or nolo contendere or a finding of
5 guilt by the court will have no effect on any administrative hearing held
6 under this section;

7 (B) An acquittal on the charges or a dismissal of charges
8 will serve to reverse the suspension or revocation of the driver's license
9 suspended or revoked under this section.

10 (3) If a person is acquitted of the charges of violating § 5-65-
11 103 or § 5-65-202, or if the charges are dismissed, the Office of Driver
12 Services shall reinstate the person's driver license at no cost to the person,
13 and the charges shall not be used to determine the number of previous offenses
14 when administratively suspending or revoking the driving privilege of any
15 arrested person in the future.

16 (e) Any person whose privilege to drive has been denied, suspended, or
17 revoked shall remain under such denial, suspension or revocation, until such
18 time that person applies to and is granted by the Office of Driver Services
19 for reinstatement of such privilege to drive, and remains subject to penalties
20 as provided in § 5-65-105 or until he is acquitted of violating § 5-65-103.

21 (f) The administrative suspension or revocation of a driver's license
22 as provided for by this section shall be supplementary to and in addition to
23 the suspensions or revocations of driver licenses which are ordered by a court
24 of competent jurisdiction for offenses under §§ 5-64-710, 5-65-116, and 27-16-
25 914, or any other traffic or criminal offense wherein a suspension or
26 revocation of the driver's license is a penalty for the violation.

27 (g) For all arrests or offenses occurring before July 1, 1996, but
28 which have not reached a final disposition as to judgment in court, the
29 offenses shall be decided under the law in effect at the time the offense
30 occurred, and any defendant shall be subject to the penalty provisions in
31 effect at that time and not under the provisions of this section.

32 ~~(h) [As enacted by Acts 1997, No. 830.] Any person whose license is~~
33 ~~suspended or revoked pursuant to this section shall be required to complete an~~
34 ~~alcohol education program as prescribed and approved by the Arkansas Highway~~
35 ~~Safety Program or an alcohol treatment program as approved by the Bureau of~~
36 ~~Alcohol and Drug Abuse Prevention of the Department of Health. Such alcohol~~

1 ~~education program may collect a program fee of up to fifty dollars (\$50.00)~~
2 ~~per enrollee to offset program costs. A person completing an alcohol education~~
3 ~~program under this subsection may be required to pay, in addition to the costs~~
4 ~~collected for education, a fee of up to twenty-five dollars (\$25.00) to offset~~
5 ~~the additional costs associated with reporting requirements under this~~
6 ~~subchapter. The alcohol education program shall report semiannually to the~~
7 ~~Arkansas Highway Safety Program all revenue derived from this fee.~~

8 (h)(1) ~~[As enacted by Acts 1997, No. 1325.]~~ Any person whose license is
9 suspended or revoked pursuant to this section shall, unless the charges are
10 dismissed or the person is acquitted of the charges upon which the suspension
11 or revocation is based, be required to complete an alcohol education program
12 as prescribed and approved by the Arkansas Highway Safety Program or an
13 alcohol treatment program as approved by the Bureau of Alcohol and Drug Abuse
14 Prevention of the Department of Health. The alcohol education program may
15 collect a program fee of up to fifty dollars (\$50.00) per enrollee to offset
16 program costs. A person required to complete an alcohol education program
17 under this section may be required to pay, in addition to the costs collected
18 for education, a fee of up to twenty-five dollars (\$25.00) to the alcohol
19 education program, to offset the additional costs associated with reporting
20 requirements under this subchapter. The alcohol education program shall report
21 semiannually to the Arkansas Highway Safety Program all revenue derived from
22 this fee.

23 (2) A person whose license is suspended or revoked pursuant to
24 this section shall furnish proof of attendance at, and completion of, the
25 alcoholism treatment or education program before reinstatement of his or her
26 suspended or revoked driver's license, or shall furnish proof of dismissal or
27 acquittal of the charge on which the suspension or revocation is based.

28 (3) Even if a person has filed a de novo petition for review
29 pursuant to subsection (c) of this section, the person shall be entitled to
30 reinstatement of driving privileges upon complying with this subsection and
31 shall not be required to postpone reinstatement until the disposition of the
32 de novo review in circuit court has occurred.

33 (i) A person whose license is suspended or revoked pursuant to this
34 section shall furnish proof of attendance at and completion of the alcohol
35 education or treatment program before reinstatement of his or her suspended or
36 revoked driver's license. Application for reinstatement shall be made to the

1 Office of Driver Services."

2

3 SECTION 2. Arkansas Code 5-65-118 is amended to read as follows:

4 "5-65-118. Additional penalties - Ignition interlock devices.

5 (a)(1) In addition to the other penalties authorized for violations of
6 this chapter, a court may, in its discretion, ~~upon finding a person~~
7 ~~financially able to afford an interlock device and~~ upon a finding of guilt or
8 a plea of guilty or nolo contendere for violating § 5-65-103, order the person
9 to operate only a motor vehicle which is equipped with a functioning ignition
10 interlock device, and this restriction may continue for a period of up to one
11 (1) year after such person's license is no longer suspended or restricted
12 under the provisions of § 5-65-104.

13 (2) The court may, at the time of sentencing, order the
14 Department of Finance and Administration, Office of Driver Services to issue a
15 restricted license in accordance with the requirements under the provisions of
16 § 5-65-104 to the person only after the person has verified installation of a
17 functioning ignition interlock device to the Office of Driver Services in any
18 motor vehicle the person intends to operate, except for exemptions allowed
19 under subsection (g) of this section.

20 ~~(2)(3)~~ (3) The court shall establish a specific calibration setting
21 no lower than two hundredths of one percent (.02%) nor more than five
22 hundredths of one percent (.05%) of alcohol in the person's blood at which the
23 ignition interlock device will prevent the motor vehicle from being started
24 and the period of time that the person shall be subject to the restriction.

25 ~~(3)(4)~~ (4) For the purpose of this section, 'ignition interlock
26 device' means a device which connects a motor vehicle ignition system to a
27 breath-alcohol analyzer and prevents a motor vehicle ignition from starting if
28 a driver's blood alcohol level exceeds the calibration setting on the device.

29 (b) Upon ordering the use of an ignition interlock device, the court
30 shall:

31 (1) State on the record the requirement for and the period of use
32 of the device, provided however, that if the court orders the use of an
33 ignition interlock device in conjunction with the issuance of a restricted
34 license under the provisions of § 5-65-104, the period of requirement of use
35 of the device shall be at least the remaining time period of the original
36 suspension imposed under § 5-65-104 and so notify the Department of Finance

1 and Administration, Office of Driver Services;

2 (2) Direct that the records of the Office of Driver Services
3 reflect:

4 (A) That the person may not operate a motor vehicle that is
5 not equipped with an ignition interlock device; and

6 (B) Whether the court has expressly permitted the person to
7 operate a motor vehicle without an ignition interlock device under subdivision
8 (g)(2) of this section;

9 (3) Direct the Office of Driver Services to attach or imprint a
10 notation on the driver's license of any person restricted under this section
11 stating that the person may operate only a motor vehicle equipped with an
12 ignition interlock device and prior to the issuance of a restricted license
13 under the provisions of § 5-65-104 by the Office of Driver Services, require
14 the person to show proof of installation of a certified ignition interlock
15 device;

16 (4) Require proof of the installation of the device and periodic
17 reporting by the person for verification of the proper operation of the
18 device;

19 (5) Require the person to have the ~~system monitored~~ device
20 serviced and monitored, at least every sixty-seven (67) days, for proper use
21 and accuracy by an entity approved by the Arkansas Department of Health ~~at~~
22 ~~least semi-annually, or more frequently as the circumstances may require;~~ and

23 (6) Require the person to pay the reasonable cost of leasing or
24 buying, monitoring, and maintaining the device, and may establish a payment
25 schedule therefor.

26 (c)(1) A person sentenced under this section to operate only a motor
27 vehicle that is equipped with an ignition interlock device may not solicit or
28 have another person start or attempt to start a motor vehicle equipped with
29 such a device.

30 (2) Except as provided in subsection (g) of this section, a
31 violation of this subsection is a Class A misdemeanor.

32 (d)(1) A person may not start or attempt to start a motor vehicle
33 equipped with an ignition interlock device for the purpose of providing an
34 operable motor vehicle to a person who is sentenced under this section to
35 operate only a motor vehicle that is equipped with an ignition interlock
36 device.

1 (2) Except as provided in subsection (g) of this section, a
2 violation of this subsection is a Class A misdemeanor.

3 (e)(1) A person may not tamper with, or in any way attempt to
4 circumvent, the operation of an ignition interlock device that has been
5 installed in a motor vehicle.

6 (2) Except as provided in subsection (g) of this section, a
7 violation of this subsection is a Class A misdemeanor.

8 (f)(1) A person may not knowingly provide a motor vehicle not equipped
9 with a functioning ignition interlock device to another person whom the
10 provider of the vehicle knows or should know was sentenced to operate only a
11 motor vehicle equipped with an ignition interlock device.

12 (2) Except as provided in subsection (g) of this section, a
13 violation of this subsection is a Class A misdemeanor.

14 (g) Any person found to have violated subsections (c)-(f) of this
15 section is guilty of a Class A misdemeanor; provided, however, that penalty
16 shall not apply if:

17 (1) The starting of a motor vehicle, or the request to start a
18 motor vehicle, equipped with an ignition interlock device is done for the
19 purpose of safety or mechanical repair of the device or the vehicle and the
20 person subject to the court order does not operate the vehicle; or

21 (2)(A) The court finds that a person is required to operate a
22 motor vehicle in the course and scope of the person's employment and, if the
23 vehicle is owned by the employer, that the person may operate that vehicle
24 during regular working hours for the purposes of his employment without
25 installation of an ignition interlock device if the employer has been notified
26 of such driving privilege restriction and if proof of that notification is
27 with the vehicle.

28 (B) This employment exemption shall not apply, however, if
29 the business entity that owns the vehicle is owned or controlled by the person
30 who is prohibited from operating a motor vehicle not equipped with an ignition
31 interlock device.

32 (3) If the person cannot provide proof of installation of a
33 functioning ignition interlock device to the Office of Driver Services under
34 § 5-65-118(a) the Office of Driver Services shall not issue a restricted
35 license as authorized under § 5-65-118.

36 (h) In addition to any other penalties authorized under this section,

1 if the court finds that the person has violated the conditions under this
2 section related to the proper use, circumvention, or maintenance of an
3 ignition interlock device, the court shall remove the ignition interlock
4 restricted license from the person and order the Office of Driver Services to
5 reinstate a license suspension for the term of the original license
6 suspension, provided however, that the term of the reinstated suspension shall
7 begin on the date of the court ordered suspension under this subsection.

8 (i) Any person whose license was suspended under § 5-65-104 prior to
9 the date of this act, who would otherwise be eligible to obtain an ignition
10 interlock restricted license may petition the court for a hearing and the
11 court may order the Office of Driver Services of the Revenue Division of the
12 Department of Finance and Administration or its designated official to issue
13 an ignition interlock restricted license as authorized under the applicable
14 section of § 5-65-104.

15 ~~(h)~~(j)(1) The Arkansas Department of Health shall certify the ignition
16 interlock systems for use in this state, shall approve the entities which
17 install and monitor the systems, and shall adopt rules and regulations for the
18 certification of the ignition interlock systems and system installation.

19 (2) The regulations shall require the ignition interlock systems,
20 as a minimum, to:

- 21 (A) Not impede the safe operation of the vehicle;
- 22 (B) Minimize the opportunities to be bypassed;
- 23 (C) Work accurately and reliably in unsupervised
24 environments;
- 25 (D) Measure, properly and accurately, the person's blood
26 alcohol levels;
- 27 (E) Minimize the inconvenience to a sober user; and
- 28 (F) Be manufactured by an entity that is responsible for
29 installation, user training, and servicing and maintenance of the systems, and
30 that is capable of providing monitoring reports to the courts.

31 (3) The Arkansas Department of Health shall develop a warning
32 label to be affixed to all ignition interlock systems used in the state to
33 warn any person of the possible penalties for tampering with or attempting to
34 circumvent the interlock system.

35 (4) The Arkansas Department of Health shall publish and update a
36 list of certified ignition interlock manufacturers and approved ignition

1 interlock system installers, and it shall be provided periodically to each
2 municipal and circuit court in the state.”

3
4 SECTION 3. All provisions of this act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

7
8 SECTION 4. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

13
14 SECTION 5. All laws and parts of laws in conflict with this act are
15 hereby repealed.

16 /s/ Glover

17
18
19 APPROVED: 4/15/1999
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36