

Hall of the House of Representatives
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of House Bill No. 1459

"AN ACT TO INCREASE THE "LOOK BACK" PERIOD FOR REPEAT DWI OFFENDERS
FROM FIVE YEARS TO TEN YEARS."

Amendment No. 1 to House Bill No. 1459.

Amend House Bill No. 1459 as originally introduced:

Page 1, line 21, add a new Section 1 to read as follows and renumber subsequent sections accordingly:

"SECTION 1. Arkansas Code 5-65-104(a), concerning the lookback period for seizure, suspension, and revocation of a driver's license, is amended to read as follows:

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

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

(A) Suspension for:

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

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

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



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

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

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

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

(C)(i) Suspension for thirty (30) months for the third offense of operating or being in actual physical control of a motor vehicle while intoxicated or while there was an alcohol concentration of eight hundredths (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-103, within ~~five (5)~~ ten (10) years of the first offense.

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

(D) Revocation for four (4) years, during which no restricted permits may be issued, for the fourth or subsequent offense of operating or being in actual physical control of a motor vehicle while intoxicated or while there was an alcohol concentration of eight hundredths (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-103, within ~~five (5)~~ ten (10) years of the first offense.

(3) If a person is a resident who is convicted of driving without a license or permit to operate a motor vehicle and the underlying basis for the suspension, revocation, or restriction of the license was for a violation of § 5-65-103, in addition to any other penalties provided for under law, the office may restrict the offender to only an ignition interlock restricted license for a period of one (1) year prior to the reinstatement or reissuance of a license or permit after the person would otherwise be eligible for reinstatement or reissuance of the person's license.

(4) In order to determine the number of previous offenses to consider when suspending or revoking the arrested person's driving privileges, the office shall consider as a previous offense any of the following that occurred within the ~~five (5)~~ ten (10) years immediately before the current offense:

(A) Any conviction for an offense of operating or being in actual physical control of a motor vehicle while intoxicated or while there was an alcohol concentration of eight-hundredths (0.08) or more in the person's breath or blood that occurred:

(i) In Arkansas; or

(ii) In another state;

(B) Any suspension or revocation of driving privileges for an arrest for operating or being in actual physical control of a motor vehicle while intoxicated or while there was an alcohol concentration of eight-hundredths (0.08) or more in the person's breath or blood under § 5-65-

103 when the person was not subsequently acquitted of the criminal charges;
or

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

AND

Page 2, delete lines 9 through 11 and substitute:

"(1)(A) For no fewer than seven (7) days but no more than one (1) year for the second offense occurring within ~~five (5)~~ ten (10) years of the first offense or no fewer than thirty (30) days of community service."

AND

Page 4, line 17, add a new section to read as follows:

"SECTION 3. Arkansas Code 5-65-205(b) through (d), concerning the lookback period for refusal to submit, is amended to read as follows:

(b) The Office of Driver Services shall then proceed to suspend or revoke the driving privilege of the arrested person, as provided in § 5-65-402. The suspension shall be as follows:

(1)(A)(i) Suspension for one hundred eighty (180) days for the first offense of refusing to submit to a chemical test of blood, breath, or urine for the purpose of determining the alcohol or controlled substance content of the person's blood or breath.

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

(iii) The restricted driving permit provision of § 5-65-120 does not apply to this suspension.

(B) The office, in addition to any other penalty, shall deny to that person the issuance of an operator's license until that person has been issued an ignition interlock restricted license for a period of six (6) months;

(2) Suspension for two (2) years, during which no restricted permit may be issued, for a second offense of refusing to submit to a chemical test of blood, breath, or urine for the purposes of determining the alcohol or controlled substance content of the person's blood or breath within ~~five (5)~~ ten (10) years of the first offense;

(3) Revocation for three (3) years, during which no restricted permit may be issued, for the third offense of refusing to submit to a chemical test of blood, breath, or urine for the purpose of determining the alcohol or controlled substance content of the person's blood within ~~five (5)~~ ten (10) years of the first offense; and

(4) Lifetime revocation, during which no restricted permit may be issued, for the fourth or subsequent offense of refusing to submit to a

chemical test of blood, breath, or urine for the purpose of determining the alcohol or controlled substance content of the person's blood or breath within ~~five (5)~~ ten (10) years of the first offense.

(c) For any arrest or offense occurring before July 30, 1999, but that has not reached a final disposition as to judgment in court:

(1) The offense shall be decided under the law in effect at the time the offense occurred; and

(2) Any defendant is subject to the penalty provisions in effect at that time and not under the provisions of this section.

(d) In order to determine the number of previous offenses to consider when suspending or revoking the arrested person's driving privileges, the office shall consider as a previous offense any of the following that occurred within the ~~five (5)~~ ten (10) years immediately before the current offense:

(1) Any conviction for an offense of refusing to submit to a chemical test; and

(2) Any suspension or revocation of driving privileges for an arrest for refusing to submit to a chemical test when the person was not subsequently acquitted of the criminal charge."

The Amendment was read _____
By: Representative Nix
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Chief Clerk