

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1645

Amendment Number: H1 (3/17/15 Engrossment)

Bill Subtitle: TO AUTHORIZE THE ISSUANCE OF A RESTRICTED DRIVING PERMIT UPON SUSPENSION OF THE DRIVER'S LICENSE OF A SPECIALTY COURT PROGRAM PARTICIPANT.

Basic Change : Sponsor: Rep. Bentley

This bill authorizes the issuance of a restricted driving permit upon suspension of the driver's license of a specialty court program participant convicted of a drug offense. Currently a person suspended under Arkansas code § 27-16-915 (possession or use of a controlled substance) may have a restricted permit if ordered by the suspending court for the purposes of driving to and from work; to and from sessions and meetings of support organizations, counseling, education, or treatment. However, a permit is not issued if the person has another suspension on their record that would cause the person to not be eligible for a restricted permit.

This bill states that the specialty court shall provide the order of suspension for the issuance of a restricted permit. What is allowed in the restricted permit has been broadened to include: court appearances, random drug testing appearances, to and from work and in the scope of employment, sessions, meetings, support organizations and counseling organizations, educational institutions, treatment programs, and doctor, hospital or clinic for medical care for the person or his/her family.

In addition to broadening the restricted driving provisions, this bill directs DFA to issue the restricted permit even if there are other unrelated suspensions on the driver's record as long as the person is enrolled in a Specialty Court Program. This bill provides exceptions to this directive. If the person is suspended under § 9-14-239 (child support); § 27-16-905 (revoked); § 27-16-907(b)(4)-(6) (suspension for conviction in another state, is legally blind, or fraud); § 27-16-908 (nonresident suspension); § 27-16-909 (ability to drive); § 27-19-707(e)(2) (unsatisfied judgment unless the judgment creditor furnishes written consent) ; or is a commercial driver DFA will not issue a restricted permit. However, if the person is suspended for any other reason, the department is directed to issue the restricted permit. Therefore, if there are current court suspensions in effect for Failure to Pay; Failure to Appear; outstanding reinstatement fees not paid from prior suspensions; if a person is suspended for a 2nd offense Refuse Test; or 2nd offense DWI/drug who are not eligible for any driving provisions under current law, DFA would be required to issue the restricted permit under this bill.

Currently a restricted permit under 27-16-915 is issued for 6 months (the duration of the suspension for possession of controlled substance). This bill requires the permit to be issued for 18 months, and the person may re-apply for another permit after 18 months. Therefore, all prior suspensions (other than the ones excepted) could remain on the record for an extended period of time until the person completes or terminates the Specialty Court Program.

Revenue Impact :

Courts and the state may wait longer to receive payment for fines and reinstatement fees if this bill is passed.

Taxpayer Impact :

Taxpayers suspended for offenses not exempted by this bill would receive restricted driving permits for as long as they are in the Specialty Court Program and thus delay completing suspension requirements placed on them by other courts.

Resources Required :

If there are a large number of participants in the Specialty Court Programs, then additional Driver Control Hearing officers and staff may be required. Programming and training will also be required to implement this bill.

Time Required :

No additional time is required to implement this bill.

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Procedural Changes :

Procedures would need to be changed to implement this bill.

Legal Analysis :

Amendment 1 requires the suspension of a driver's license to those who enter a specialty court program and mandates the issuance of a restricted driving permit by the supervising court. HB1645 presents a procedural conflict. § 27-16-915(b)(1)(A) adds that a person's driving privileges are suspended upon entry into the specialty court program. Under § 27-16-915 as currently codified, driving privileges are suspended only after a guilty plea or court determination of guilt. However, under the bill, subdivision (b)(1)(B) requires a court to prepare a suspension order within 24 hours after the plea or finding to DFA, but does not specify when the suspension order should be prepared upon enrollment in a specialty court program. Therefore, § 27-16-915(b)(1)(B) should be amended in the bill to provide that acceptance and enrollment in a court-approved pre-adjudication specialty court program shall require the court to prepare and transmit to DFA the order of suspension within 24 hours.

Under current law § 27-16-915(b)(2) provides that the court may issue a restricted permit to a person suspended for a controlled substances offense. Under HB1645, the court is mandated to issue a restricted permit. The restricted permit authorizes various driving purposes including employment, court appearances, doctor's visits, rehabilitation meetings, etc. Subsection (b)(3)(A) appears redundant as it requires courts to issue a restricted driving permit for court-approved purposes. For purposes of clarity and uniformity, it would seem appropriate to include the court-approved driving purposes of (b)(3)(A) with the allowable driving purposes stated in (b)(2).

Subsection (b)(4) of the bill should be deleted in its entirety. The suspension of driving privileges pursuant to § 27-16-915 only applies to a controlled substances offense. If a person's driver's license is suspended under § 27-16-915(b)(1)(A), the court shall provide to the DFA an order to issue a restricted driving permit. Subsection (b)(4) discusses administrative license suspensions that are not relevant to the purpose of this bill and should be omitted.

In addition, § 27-16-915(b)(1)(A), a person's driving privileges are suspended for six months upon entry into a specialty court program or a finding of guilt of a drug offense. Subsection (b)(5)(A) states that the restricted driving permit shall be effective for 18 months. A person cannot have both a valid license and a restricted permit. Subsection (b)(5)(A) should be amended to a six month restricted permit.

There is no effective date or emergency clause listed.