

Department of Finance and Administration

Legislative Impact Statement

Bill: SB81

As Engrossed: 2/12/2015

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 engrossed with amendments 1 and 2 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. This bill before amendment 1 changed these requirements by allowing courts 30 days to prepare abstract and report convictions. Amendment 1 changed the time allowed to courts to prepare an abstract and report convictions to 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 and 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 requires that the boating DUI 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. This bill before amendment makes the interlock device mandatory for a period of six (6) months on a first offense refusal to submit to a chemical test in a boat or a motor vehicle. Amendment 1 deletes the section making the interlock device mandatory.

This bill as engrossed with amendment 2 adds clarification to the offense of unlawfully starting or attempting to start a motor vehicle equipped with an ignition interlock device for another person. Amendment 2 also deletes the term "person's bodily substance" and replaces it with "person's blood, urine, breath, or other bodily substance" concerning the admissibility of a chemical analysis.

This bill as engrossed with amendments 1 and 2 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.

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This bill as engrossed 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-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 engrossed authorizes state highway commission enforcement officers to enforce the BWI Act. The engrossed bill also 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 :

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 :

SB81, as engrossed by Amendment 2, makes technical corrections to the previous version of the bill. The technical corrections of the amendment to the bill have no impact on DFA.

The new language on page 29, Line 30-33, regarding the criminal offense of Unlawfully Starting or Attempting to Start a Motor Vehicle Equipped with an Ignition Interlock Device, reverts the language of the bill to correspond to existing law. More specifically, as originally proposed in SB81 and under existing law, a person could not lawfully start or attempt to start a motor vehicle equipped with an ignition interlock device for another person if the other person was the holder of an interlock license.