



Arkansas
Sentencing
Commission

Impact Assessment for SB145
Sponsored by Senator Bond

Subtitle TO AMEND THE LAW CONCERNING THE ELEMENTS AND PENALTIES OF NEGLIGENT HOMICIDE.

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

Change from current law² Amends Arkansas Code § 5-10-105, Negligent homicide. A person commits negligent homicide if he or she negligently causes the death of another person, not constituting murder or manslaughter, as a result of operating a vehicle, an aircraft, or a watercraft while *engaging in wireless interactive communication*. (Italics indicate proposed changes.) Upon conviction, the person is guilty of a Class B felony. The proposed bill defines wireless interactive communication as typing, texting, messaging, emailing, or accessing information on the Internet with a handheld wireless telephone. The proposed bill also defines handheld wireless telephone and adds language concerning driving privileges for a person convicted of negligent homicide while engaging in wireless interactive communication.

Impact Information This proposed bill adds conduct creating a new way to commit this offense. The following relevant information is available in consideration of the impact of this bill.

The Arkansas State Police, Highway Safety Office (ASP), provided the following data on the number of incidents where a crash resulted from a driver distracted by an electronic communication device, as compiled from police submitted crash reports. These numbers do not distinguish the type of wireless communication a driver engaged in that contributed to the reported crash.

Year	Number of Crashes	Number of Fatalities
2012	695	4
2013	590	2
2014	694	0

¹ This impact assessment was prepared (1/24/2017, 3:02 p.m.) 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

Of the six (6) fatalities reported by the ASP, three (3) were drivers of the vehicle that crashed, the remaining three (3) were identified as being in a different vehicle (2) or as a non-motorist (1). Please note, these numbers do not account for fatalities caused by engaging in wireless communication while operating a motor boat.

A.C.A. § 5-10-105. Negligent homicide.

(a) (1) A person commits negligent homicide if he or she negligently causes the death of another person, not constituting murder or manslaughter, as a result of operating a vehicle, an aircraft, or a watercraft:

(A) While intoxicated;

(B) (i) If at that time there is an alcohol concentration of eight hundredths (0.08) or more in the person's breath or blood based upon the definition of alcohol concentration in § 5-65-204, as determined by a chemical test of the person's blood, urine, breath, saliva, or other bodily substance.

(ii) The method of the chemical test of the person's blood, urine, saliva, breath, or other bodily substance shall be made in accordance with §§ 5-65-204 and 5-65-206;

(C) While passing a stopped school bus in violation of § 27-51-1004; or

(D) While fatigued.

(2) A person who violates subdivision (a)(1) of this section upon conviction is guilty of a Class B felony.

(b) (1) A person commits negligent homicide if he or she negligently causes the death of another person.

(2) A person who violates subdivision (b)(1) of this section upon conviction is guilty of a Class A misdemeanor.

(c) As used in this section:

(1) "Fatigued" means:

(A) Having been without sleep for a period of twenty-four (24) consecutive hours; or

(B) Having been without sleep for a period of twenty-four (24) consecutive hours and in the state of being asleep; and

(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 an intoxicant to such a degree that the operator's reactions, motor skills, and judgment are substantially altered and the operator therefore constitutes a clear and substantial danger of physical injury or death to himself or herself or to another person.

HISTORY: Acts 1975, No. 280, § 1505; A.S.A. 1947, § 41-1505; Acts 1987, No. 538, § 1; 1999, No. 1112, § 1; 2001, No. 561, § 1; 2005, No. 1004, § 1; 2005, No. 2128, § 2; 2009, No. 650, § 1; 2013, No. 361, § 1; 2013, No. 1296, § 1.