

1 INTERIM STUDY PROPOSAL 2013-068

2 State of Arkansas  
3 89th General Assembly  
4 Regular Session, 2013

*As Engrossed: H4/3/13*  
**A Bill**

HOUSE BILL 1394

5  
6 By: Representatives Fielding, Baltz, Hawthorne, House, Julian, McGill, Sabin, F. Smith, D. Whitaker,  
7 Word

8 By: Senator Irvin

9 Filed with: Interim House Committee on Judiciary  
10 pursuant to A.C.A. §10-3-217.

11  
12 **For An Act To Be Entitled**

13 AN ACT TO MAKE OUR ROADS SAFER BY PROVIDING FOR  
14 EDUCATION AND TESTING CONCERNING DISTRACTED DRIVING;  
15 TO ENSURE DETERRENCE FROM TEXTING WHILE DRIVING BY  
16 INCREASING THE RELATED PENALTIES; AND FOR OTHER  
17 PURPOSES.

18  
19  
20 **Subtitle**

21 TO MAKE OUR ROADS SAFER BY PROVIDING FOR  
22 EDUCATION AND TESTING CONCERNING  
23 DISTRACTED DRIVING; AND TO ENSURE  
24 DETERRENCE FROM TEXTING WHILE DRIVING BY  
25 INCREASING THE RELATED PENALTIES.

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27  
28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

29  
30 SECTION 1. Arkansas Code § 27-16-706 is amended to read as follows:  
31 27-16-706. Written test – Contents.

32 The driver's license test shall include written questions concerning:

33 (1) The effects of the consumption of alcoholic beverage  
34 products and the use of illegal drugs, prescription drugs, and  
35 nonprescription drugs on the ability of a person to operate a motor vehicle;

1 (2) The legal and financial consequences resulting from  
2 violations of the state’s laws prohibiting the operation of a motor vehicle  
3 while under the influence of alcohol or drugs;

4 (3) Accessible parking for a person with a disability; ~~and~~

5 (4) Penalties for the unauthorized use of parking designated for  
6 the exclusive use of a person with a disability; and

7 (5) The effects and hazards of distracted driving and the  
8 penalties for violations of state distracted driving laws.

9  
10 SECTION 2. Arkansas Code § 27-16-804(b)(2)(B)(iii), concerning the use  
11 of a cellular telephone device by a driver under eighteen (18) years of age,  
12 is amended to read as follows:

13 (iii) The driver shall not use a cellular telephone  
14 device, wireless telephone, or other interactive wireless communication  
15 device while operating a motor vehicle except for an emergency purpose as  
16 provided under the Fewer Distractions Mean Safer Driving Act, § 27-51-1601 et  
17 seq. As used in this subdivision (b)(2)(B)(iii), “emergency purpose” means  
18 ~~the driver:~~

19 (a) ~~Has reason to fear for his or her life, safety,~~  
20 ~~or property;~~

21 (b) ~~Reasonably believes that a criminal act may be~~  
22 ~~perpetrated against him or her, his or her property, another person, or~~  
23 ~~another person’s property; or~~

24 (c) ~~Is reporting:~~

25 (1) ~~A fire;~~

26 (2) ~~A traffic accident;~~

27 (3) ~~A serious road hazard;~~

28 (4) ~~A medical emergency;~~

29 (5) ~~A hazardous materials emergency;~~

30 (6) ~~Another driver who is recklessly,~~  
31 ~~carelessly, or unsafely driving; or~~

32 (7) ~~Another driver who appears to be driving~~  
33 ~~under the influence of drugs or alcohol.~~

1 SECTION 3. Arkansas Code § 27-16-804(e), concerning penalties for  
2 violation of motor vehicle license restrictions, is amended to read as  
3 follows:

4 (e) ~~It~~ Unless otherwise provided by law, it is a misdemeanor for ~~any a~~  
5 person to operate a motor vehicle in ~~any a~~ manner in violation of the  
6 restrictions imposed in a restricted license issued to him or her.

7  
8 SECTION 4. Arkansas Code § 27-16-804(f)(4), concerning use of a  
9 cellular telephone device by a driver with a learner's license, is amended to  
10 read as follows:

11 (4)(A) A driver with a learner's license shall not use a  
12 cellular telephone device, wireless telephone, or other interactive wireless  
13 communication device while operating a motor vehicle except for an emergency  
14 purpose as provided under the Fewer Distractions Mean Safer Driving Act, §  
15 27-51-1601 et seq.

16 ~~(B) As used in this subdivision (f)(4), "emergency~~  
17 ~~purpose" means the driver:~~

18 ~~(i) Has reason to fear for his or her life, safety,~~  
19 ~~or property;~~

20 ~~(ii) Reasonably believes that a criminal act may be~~  
21 ~~perpetrated against him or her, his or her property, another person, or~~  
22 ~~another person's property; or~~

23 ~~(iii) Is reporting:~~

24 ~~(a) A fire;~~

25 ~~(b) A traffic accident;~~

26 ~~(c) A serious road hazard;~~

27 ~~(d) A medical emergency;~~

28 ~~(e) A hazardous materials emergency;~~

29 ~~(f) Another driver who is recklessly,~~  
30 ~~carelessly, or unsafely driving; or~~

31 ~~(g) Another driver who appears to be driving~~  
32 ~~under the influence of drugs or alcohol.~~

33 ~~(C)(B)~~ This subdivision (f)(4) is not retroactive and  
34 applies only to a person who:

35 (i) Applies for a learner's license after the  
36 effective date of this act; and

1 (ii) Is issued a learner’s license after the  
2 effective date of this act.

3  
4 SECTION 5. Arkansas Code § 27-16-804(g)(1)(D), concerning use of a  
5 cellular telephone device by a driver with an intermediate license, is  
6 amended to read as follows:

7 (D)~~(i)~~ A driver with an intermediate driver’s license  
8 shall not use a cellular telephone device, wireless telephone, or other  
9 interactive wireless communication device while operating a motor vehicle  
10 except for an emergency purpose, as provided under the Fewer Distractions  
11 Mean Safer Driving Act, § 27-51-1601 et seq.

12 ~~(ii) As used in this subdivision (g)(1)(D),~~  
13 ~~“emergency purpose” means the driver:~~

14 ~~(a) Has reason to fear for his or her life,~~  
15 ~~safety, or property;~~

16 ~~(b) Reasonably believes that a criminal act~~  
17 ~~may be perpetrated against him or her, his or her property, another person,~~  
18 ~~or another person’s property; or~~

19 ~~(c) Is reporting:~~

20 ~~(1) A fire;~~

21 ~~(2) A traffic accident;~~

22 ~~(3) A serious road hazard;~~

23 ~~(4) A medical emergency;~~

24 ~~(5) A hazardous materials emergency;~~

25 ~~(6) Another driver who is recklessly,~~  
26 ~~carelessly, or unsafely driving; or~~

27 ~~(7) Another driver who appears to be~~  
28 ~~driving under the influence of drugs or alcohol.~~

29  
30 SECTION 6. Arkansas Code § 27-18-108 is amended to read as follows:  
31 27-18-108. Instruction manual.

32 The driver’s instruction manual of the Department of Arkansas State  
33 Police issued to persons who are preparing to take a driver’s license  
34 examination shall include information on driver and highway safety matters,  
35 including:

1           (1) The effects of the consumption of beverage alcohol products  
2 and the use of illegal drugs, prescription drugs, and nonprescription drugs  
3 on the ability of a person to operate a motor vehicle;

4           (2) The hazards of driving while under the influence;

5           (3) The penalties for driving while under the influence;

6           (4) The effect and hazards of discarding litter upon or along  
7 the public highways of Arkansas and the penalties for violations of the  
8 Litter Control Act, § 8-6-401 et seq.; ~~and~~

9           (5) The effects and hazards of unsafe driving through highway  
10 work zones and the penalties for violations for driving unsafely through  
11 highway work zones; and

12           (6) The effects and hazards of distracted driving and the  
13 penalties for violations of state distracted driving laws.

14  
15           *SECTION 7. Arkansas Code § 27-51-1503(1)(B), concerning definitions*  
16 *under Paul's Law: To Prohibit Drivers of Motor Vehicles from Using Handheld*  
17 *Wireless Telephones to Engage in Text Messaging, § 27-51-1501 et seq., is*  
18 *amended to add an additional subdivision to read as follows:*

19           *(B) "Handheld wireless telephone" does not include a:*

20                   *(i) Hands-free wireless telephone or device;*

21                   *(ii) Citizens band radio; ~~or~~*

22                   *(iii) Citizens band radio hybrid; or*

23                   *(iv) Global positioning system device;*

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25           *SECTION 8. Arkansas Code § 27-51-1504, concerning use of a handheld*  
26 *wireless telephone when driving, is amended to add an additional subsection*  
27 *to read as follows:*

28           *(c) A person violating subsection (a) of this section while driving or*  
29 *operating a vehicle in such a careless manner as to evidence a failure to*  
30 *keep a proper lookout for other traffic, vehicular or otherwise, or in such a*  
31 *manner as to evidence a failure to maintain proper control on the public*  
32 *thoroughfares or private property in the State of Arkansas, is subject to the*  
33 *penalties in § 27-51-1506.*

34  
35           *SECTION 9. Arkansas Code § 27-51-1506 is amended to read as follows:*

1        (a) A person who pleads guilty or nolo contendere to or has been found  
2 guilty of violating ~~this section~~ § 27-51-1504(a) commits a violation.

3        (b) A person who pleads guilty or nolo contendere to or has been found  
4 guilty of violating § 27-51-1504(c) shall:

5                (1) For a first offense:

6                        (A) Pay a fine of two hundred dollars (\$200); and

7                        (B) Have his or her driver's license suspended by the  
8 court for a period of not more than thirty (30) days;

9                (2) For a second offense occurring within five (5) years of the  
10 first offense:

11                        (A) Pay a fine of three hundred dollars (\$300); and

12                        (B) Have his or her driver's license suspended by the  
13 court for a period of not more than ninety (90) days; and

14                (3) For a third and subsequent offense occurring within five (5)  
15 years of the first offense:

16                        (A) Pay a fine of five hundred dollars (\$500); and

17                        (B) Have his or her driver's license suspended by the  
18 court for a period of not more than one (1) year.

19        (c) Upon request of a person whose privilege to drive has been  
20 suspended under this section the Office of Driver Services may modify the  
21 suspension under § 5-65-120.

22  
23        SECTION 10. Arkansas Code Title 27, Chapter 51, Subchapter 15 is  
24 amended to add an additional section to read as follows:

25        27-51-1507. Applicability.

26        This subchapter does not apply to a person operating a commercial motor  
27 vehicle as defined by 49 C.F.R. § 390.5, as in effect on January 1, 2013.

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29        SECTION 11. Arkansas Code § 27-51-1605 is repealed.

30        ~~A driver of a motor vehicle is not to be stopped or detained solely to~~  
31 ~~determine compliance with this subchapter.~~

32  
33        SECTION 12. Arkansas Code § 27-51-1607 is amended to read as follows:

34        (a)(1) For a first offense under ~~this subchapter~~ § 27-51-1603 or § 27-  
35 51-1604, a person shall be issued a warning citation ~~that is a warning~~

1 ~~citation~~, and no court appearance is required and no penalty shall be imposed  
2 by the court.

3 (2) A record of each warning citation issued shall be  
4 maintained.

5 (b) A person who pleads guilty or nolo contendere to or has been found  
6 guilty of violating ~~this subchapter~~ § 27-51-1603 or § 27-51-1604 for a second  
7 or subsequent offense is guilty of a violation under § 5-1-108 and shall be  
8 fined fifty dollars (\$50.00).

9 (c) A person who pleads guilty or nolo contendere to or has been found  
10 guilty of violating § 27-51-1609, § 27-51-1610, or § 27-51-1611 shall:

11 (1) For a first offense:

12 (A) Pay a fine of two hundred dollars (\$200); and

13 (B) Have his or her driver's license suspended by the  
14 court for a period of not more than thirty (30) days;

15 (2) For a second offense occurring within five (5) years of the  
16 first offense:

17 (A) Pay a fine of three hundred dollars (\$300); and

18 (B) Have his or her driver's license suspended by the  
19 court for a period of not more than ninety (90) days; and

20 (3) For a third and subsequent offense occurring within five (5)  
21 years of the first offense:

22 (A) Pay a fine of five hundred dollars (\$500); and

23 (B) Have his or her driver's license suspended by the  
24 court for a period of not more than one (1) year.

25 (d) Upon request of a person whose privilege to drive has been  
26 suspended under this section the Office of Driver Services may modify the  
27 suspension under § 5-65-120.

28  
29 SECTION 13. Arkansas Code Title 27, Chapter 51, Subchapter 16, is  
30 amended to add additional sections to read as follows:

31 27-51-1611. Proper lookout and proper control.

32 A person violating this subchapter while driving or operating a  
33 vehicle in such a careless manner as to evidence a failure to keep a proper  
34 lookout for other traffic, vehicular or otherwise, or in such a manner as to  
35 evidence a failure to maintain proper control on the public thoroughfares or

1 private property in the State of Arkansas, shall be subject to the penalties  
2 in § 27-51-1607(c).

3  
4 27-51-1612. Applicability

5 This subchapter does not apply to a person operating a commercial motor  
6 vehicle as defined by 49 C.F.R. § 390.5, as in effect on January 1, 2013.

7  
8 /s/Fielding

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11 Referred by the Arkansas House of Representatives

12 Prepared by: GAR/jlc