



## ARKANSAS CODE REVISION COMMISSION

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April 1, 2016

State Senator Bill Sample, Co-Chair  
State Representative David L. Branscum, Co-Chair  
Arkansas Legislative Council  
Room 315 State Capitol Building  
Little Rock, Arkansas 72201

Dear Senator Sample and Representative Branscum:

On behalf of the Arkansas Code Revision Commission, I am submitting to you pursuant to Arkansas Code § 1-2-303(c)(2) the enclosed initial drafts of corrective legislation for consideration by the Legislative Council and the 91<sup>st</sup> Regular Session of the Arkansas General Assembly.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Vincent C. Henderson II".

Vincent C. Henderson II  
Arkansas Code Revisor

pc: Marty Garrity, Director  
Bureau of Legislative Research

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 5

SECTION \_\_. Arkansas Code Annotated § 5-13-202(c) is amended to read as follows to correct a reference:

(c) As used in this section, “motorboat” means the same as defined in § ~~5-76-101~~ ~~[repealed]~~ § 5-65-102.

SECTION \_\_. Arkansas Code Annotated § 5-14-128(c)(3) is amended to read as follows to clarify its application:

(3)(A) With respect to a church or other place of worship, it is not a violation of this section if the sex offender resides on property he or she owns prior to July 22, 2015.

(B) The exclusion in subdivision (c)(3)(A) of this section does not apply to a sex offender who pleads guilty or nolo contendere to or is found guilty of another sex offense on or after the effective date of this act.

SECTION \_\_. Arkansas Code Annotated § 5-27-220 is amended to read as follows to remove obsolete language, conform the culpable mental state of a criminal offense with § 5-2-202, and make stylistic changes:

5-27-220. Contributing to the delinquency of a juvenile.

(a) A person ~~is guilty of a Class A misdemeanor or commits the offense of contributing to the delinquency of a juvenile~~ if the person ~~willfully knowingly~~ causes, aids, or encourages any minor to do or perform any act which, if done or performed, would make the minor a delinquent juvenile ~~or juvenile in need of supervision within the meaning of this section and under~~ the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.

(b) A judge may issue a bench warrant for the arrest of an adult in which there is probable cause to believe the adult is committing an offense under this section, returnable to either the district court or the circuit court of the county where the offense was committed.

(c) Any indictment or information under this section shall state the specific act the defendant is alleged to have committed.



~~(d)(1) Any person convicted of a violation of this section may be punished as provided for Contributing to the delinquency of a juvenile is a Class A misdemeanor.~~

(2) However, the court may suspend or postpone enforcement of any part of the sentence or fine levied under this section if in the judgment of the court the suspension or postponement is in the best interest of the minor that was caused, aided, or encouraged.

SECTION \_\_. Arkansas Code Annotated § 5-28-110 is repealed because it is superseded by § 12-12-1720 and is obsolete.

~~5-28-110. Penalties for violation of § 12-12-1701 et seq.~~

~~(a) Any person or caregiver required by the Adult and Long-Term Care Facility Resident Maltreatment Act, § 12-12-1701 et seq., to report a case of suspected adult maltreatment or long-term care facility resident maltreatment who purposely fails to do so is:~~

~~(1) Guilty of a Class B misdemeanor; and~~

~~(2) Civilly liable for damages proximately caused by the failure.~~

~~(b) Any person, official, or institution willfully making a false notification by the Adult and Long-Term Care Facility Resident Maltreatment Act, § 12-12-1701 et seq., knowing the allegation to be false, is guilty of a:~~

~~(1) Class A misdemeanor; or~~

~~(2) Class D felony if the person, official, or institution has been previously convicted of making a false allegation.~~

~~(c) Any person who willfully permits and any other person who encourages the release of data or information contained in the adult and long-term care facility maltreatment central registry to a person to whom disclosure is not permitted under this section, § 5-28-201 [repealed], or §§ 5-28-203—5-28-221 [repealed] is guilty of a Class A misdemeanor.~~

~~(d) Any person required to report a death as the result of suspected adult maltreatment or long-term care facility resident maltreatment who knowingly fails to make a report immediately to the appropriate coroner is guilty of a Class C misdemeanor.~~

~~(e) Any person required to report suspected adult maltreatment or long-term care facility resident maltreatment who knowingly fails to make a report within twenty-four (24) hours or on the next business day, whichever is earlier, is guilty of a Class C misdemeanor.~~

SECTION \_\_. Arkansas Code Annotated § 5-62-102(18) is amended to read as follows to correct a grammatical error:

(18) “Person” means an individual, company, partnership, limited liability company, joint venture, joint agreement, mutual association or other association, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other private entity;

SECTION \_\_. Arkansas Code Annotated § 5-64-415(h)(2) is amended to read as follows to correct references:

(2) Before selling, transferring, or otherwise furnishing to a person in this state a drug precursor substance ~~subject to subdivision (h)(1) of this section~~, a manufacturer, wholesaler, retailer, or other person shall:

(A) If the ~~recipient~~ recipient does not represent a business, obtain from the recipient:

(i) The recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than a post office box number, from a driver's license or personal identification card issued by the Department of Finance and Administration that contains a photograph of the recipient;

(ii) The year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient;

(iii) A complete description of how the ~~substance~~ drug precursor is to be used; and

(iv) The recipient's signature;

(B) If the recipient represents a business, obtain from the recipient:

(i) A letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number, and a complete description of how the drug precursor substance is to be used; and

(ii) The recipient's signature; and

(C) For any recipient, sign as a witness to the signature and identification of the recipient.

SECTION \_\_. Arkansas Code Annotated § 5-64-1004 is amended to read as follows to clarify its application:

5-64-1004. Failure to maintain records — Penalty.

Failure to maintain accurate records with proper identification from the purchaser under this subchapter is considered a Class A misdemeanor.

SECTION \_\_. Arkansas Code Annotated § 5-65-104 is amended to read as follows to correct a reference:

A person whose driving privilege has been suspended or revoked under this ~~subchapter~~ chapter who operates a motor vehicle in this state during the period of the suspension or revocation upon conviction is guilty of an unclassified misdemeanor and:

SECTION \_\_. Arkansas Code Annotated § 5-65-111(a) is amended to read as follows to clarify its application:

(a)(1)~~(A)~~ A person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103, for a first offense, is upon conviction guilty of an unclassified misdemeanor and may be imprisoned for not less than: ~~twenty-four~~ (A) Twenty-four (24) hours but no more than one (1)-year; or

~~(B) The court may order public service instead of imprisonment and, if the court orders public service, the court shall include the reasons for the order of public service instead of imprisonment in the court's written order or judgment.~~

~~(2)(A) If Seven (7) days but no more than one (1) year if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense, a person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 is upon conviction guilty of an unclassified misdemeanor and may be imprisoned for not less than seven (7) days but no more than one (1) year.~~

~~(B)~~ (2) The court may order public service instead of imprisonment and, if the court orders public service, the court shall include the reasons for the order of public service instead of imprisonment in the court's written order or judgment.

SECTION \_\_. Arkansas Code Annotated § 5-65-111(i) is amended to read as

follows to correct a reference:

(i) It is an affirmative defense to prosecution under subdivisions ~~(a)(2)(A), (a)(1)(B),~~ (b)(1)(B), (c)(1)(B), (d)(1)(B), and (e)(1)(B) of this section that the person operating or in actual physical control of the motor vehicle or motorboat was not more than two (2) years older than the passenger.

SECTION \_\_. The introductory language of Arkansas Code Annotated § 5-65-205(b)(2)(A) is amended to read as follows to correct a reference:

(2)(A) A person who refuses to submit to a chemical test of his or her blood, breath, saliva, or urine for the purpose of determining the alcohol concentration or controlled substance content of the person's blood or breath shall have his or her driving privileges:

SECTION \_\_. Arkansas Code Annotated § 5-73-110(a) is amended to read as follows to clarify its application and comply with § 1-2-124:

(a) Subject to constitutional limitation, ~~nothing in~~ this section and §§ 5-73-101 — 5-73-109 ~~shall be construed to~~ do not prohibit a law enforcement officer from disarming, without arresting, a minor or person who reasonably appears to be ~~mentally defective or otherwise mentally irresponsible~~ a person with a mental illness or otherwise mentally impaired when that minor or person is in possession of a deadly weapon.

SECTION \_\_. Arkansas Code Annotated § 5-73-133(d) is amended to read as follows to correct the classification of a criminal offense and make technical corrections:

(d)(1) A person who violates subdivision (b)(1) of this section upon conviction is deemed guilty of ~~an unclassified misdemeanor~~ a violation punishable by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

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

SECTION \_\_. Arkansas Code Annotated § 5-73-306(5)(C) is amended to read as follows to clarify its application:

(C) The quorum court by ordinance approves a plan that allows licensees permitted under this subdivision (5) to carry a concealed handgun into the

courthouse, the courthouse annex, or other building owned, leased, or regularly used by the county for conducting court proceedings or housing a county office as set out by the local security and emergency preparedness plan;

SECTION \_\_. Arkansas Code Annotated § 5-73-306(14)(B)(v) is amended to read as follows to clarify its application and for consistency with § 5-73-119:

(v) A publicly owned and maintained parking lot of a school, college, community college, or university if the licensee is carrying a concealed handgun in his or her motor vehicle or has left the concealed handgun in his or her locked and unattended motor vehicle;

SECTION \_\_. Arkansas Code Annotated § 5-73-309(5)(B)(ii) is amended to read as follows to clarify its application:

(ii) The order sealing or expunging the applicant's record of conviction complies with the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., or if the order was issued before January 1, 2014, former § 16-90-605 [repealed];

SECTION \_\_. Arkansas Code Annotated § 5-74-107(c)(2) is amended to read as follows to remove obsolete references and correct references:

(2)(A) Property that is forfeitable based on this section is forfeited pursuant to and in accordance with the procedures for forfeiture in §§ 5-64-505 and ~~5-64-509~~ [repealed].

(B) The reference to §§ 5-64-505 and ~~5-64-509~~ [repealed] is procedural only, and it is not a defense to forfeiture under this section that the shooting-discharge of a firearm did not involve a controlled substance.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 6

SECTION \_\_. Arkansas Code § 6-13-629(a)(2)(B)(iii), concerning training and instruction of school board members, is amended to read as follows to correct parallelism:

(B) The training or instruction on how to read and interpret an audit report shall be conducted:

(i) By a person who:

(a) Is licensed to practice accounting by the Arkansas State Board of Public Accountancy;

(b) Has prior experience in conducting a school district financial audit;

(c) Is not an employee of Arkansas Legislative Audit unless the training or instruction is conducted for the boards of directors of multiple school districts; and

(d) Is not the person conducting the annual audit or other financial audit of the school district unless the training or instruction is presented in a large group setting sponsored by a statewide or regional organization that is attended by multiple school districts;

(ii) Under the consultation or supervision of an individual who qualifies under subdivision (a)(2)(B)(i) of this section as part of a program that is provided:

(a) By an institution of higher education located in Arkansas;

(b) From instruction sponsored or approved by the Department of Education; or

(c) By an in-service training conducted by or through the Arkansas School Boards Association; and

(iii) ~~May be conducted by~~ By electronic means or in person, or both.

SECTION \_\_. Arkansas Code § 6-14-115(a)(2)(F), concerning the return, canvass, and appeal of votes in a school election, is amended to read as follows:

(F) Notice that the individual shall ~~be unable to~~ not assume the duties of a director until a copy of the administration of the oath is received by the county clerk or his or her designee.

SECTION \_\_. Arkansas Code § 6-15-902, concerning grading scales and exemptions, is amended to remove “Special education classes” from the catchline since it is no longer part of the section, to read as follows:

6-15-902. Grading scale – Exemptions —~~Special education classes.~~

SECTION \_\_. Arkansas Code § 6-17-428(q), concerning ethical violations, is amended to read as follows:

(q) Subject to the disclosure limitations of subsections (m) and (o) of this section, the department may include on the department's public website for licensure the following information on each violation of the code of ethics by an educator ~~upon whom the State Board of Education has suspended, revoked, denied, or not renewed a license based on the recommendations of the ethics subcommittee~~ whose license the State Board of Education has suspended, revoked, denied, or not renewed based on the recommendations of the ethics subcommittee:

- (1) The code of ethics standard that was violated;
- (2) The sanction approved by the State Board of Education; and
- (3) A copy of the final order of the State Board of Education.

SECTION \_\_. Arkansas Code § 6-41-703(1)(B)(i), concerning eligibility for admission into a Building Better Futures High School Program, is amended to read as follows:

(B)(i) The parent or guardian of the student shall ~~notify~~ make a request to the student's individual education program committee at least one (1) calendar year in advance of the Building Better Futures High School Program's application deadline ~~of the parent or~~

~~guardian's desire for the student's individual education program to include participation, if admitted, that the student's individual education program include participation~~ in the nearest Building Better Futures High School Program.

SECTION \_\_. Arkansas Code § 6-53-405(a), concerning consolidations of state-supported vocational-technical institutions, is amended to read as follows to clarify which board may consolidate:

(a)(1) As provided in this chapter or upon approval of the Career Education and Workforce Development Board, the board of trustees of the receiving institution, the Arkansas Higher Education Coordinating Board, and an accrediting agency recognized by the federal Department of Education, the ~~board~~ Arkansas Higher Education Coordinating Board may consolidate a state-supported vocational-technical institution with a four-year institution or a two-year branch campus of a four-year institution.

(2) Following approval by an accrediting agency recognized by the federal Department of Education, the ~~board~~ Arkansas Higher Education Coordinating Board, upon approval of the board of trustees of the receiving institution, shall consolidate the following state-supported vocational-technical institutions and four-year institutions or two-year branch campuses of a four-year institution: White River Vocational-Technical School with Arkansas State University-Beebe.

SECTION \_\_. Arkansas Code § 6-82-1103(b), concerning eligibility for the Second Effort Scholarship Program, is amended to read as follows:

(b) A student shall be eligible for an award from this program if he or she meets all of these criteria:

(1) The recipient shall be at least eighteen (18) years of age or a former member of a high school class ~~which~~ that has graduated;

(2) The recipient ~~shall have~~ has been a resident of the State of Arkansas for at least twelve (12) months prior to successful completion of ~~the General Educational Development Test~~ a high school equivalency test;

(3) The recipient ~~must be~~ is a citizen of the United States or ~~be~~ a permanent resident alien;



(4) The recipient ~~must be~~ is accepted for admission at an approved postsecondary school or college as a freshman, as defined by the Department of Higher Education, and must enroll in an approved institution within eighteen (18) months following passage of a high school equivalency test;

(5) The recipient ~~must have~~ has passed a high school equivalency test in the calendar year prior to application for the scholarship; and

(6)(A) The recipient ~~must have~~ has scored in the top ten (10) of all Arkansans who took a high school equivalency test in the calendar year prior to application for the scholarship, as certified to the Department of Higher Education by the Adult Education ~~Section~~ section of the Department of Career Education.

(B) Provided, however, that the Department of Higher Education ~~is authorized to~~ may award a high school equivalency scholarship to an otherwise eligible student who scored in the top twenty-five (25) on the previous calendar year's high school equivalency test if all test-takers scoring above the applicant on a high school equivalency test:

- (i) Have ~~either~~ received a scholarship;
- (ii) Have not applied by the application deadline; or
- (iii) Are otherwise ineligible to receive a scholarship.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 7

SECTION \_\_. Arkansas Code § 7-6-218, concerning citizen complaints to the Arkansas Ethics Commission, is amended as follows to clarify responsible commission:

7-6-218. Citizen complaints.

(a)(1) Any citizen may file a complaint with the Arkansas Ethics Commission against a person covered by this subchapter, by § 7-1-103(a)(1)-(4), (6), or (7); § 21-1-401 et seq.; the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-501 et seq. [repealed]; § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30; for an alleged violation of the subchapters or sections. For purposes of this subdivision (a)(1), the Arkansas Ethics Commission shall be considered a citizen.

(2) A complaint must be filed within four (4) years after the alleged violation occurred. If the alleged violation is the failure to file a report or the filing of an incorrect report, the complaint ~~must~~ shall be filed within four (4) years after the date the report was due.

(b)(1)(A) Upon a complaint stating facts constituting an alleged violation signed under penalty of perjury by any person, the ~~commission~~ Arkansas Ethics Commission shall investigate the alleged violation of this subchapter or § 7-1-103(a)(1)-(4), (6), or (7); the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; § 21-1-401; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30.

(B) The ~~commission~~ Arkansas Ethics Commission shall immediately notify any person under investigation of the investigation and of the nature of the alleged violation.

(C) The ~~commission~~ Arkansas Ethics Commission in a document shall advise the complainant and the respondent of the final action taken, together with the reasons for the action, and such document shall be a public record.

(D) Filing of a frivolous complaint shall be a violation of this subchapter. For purposes of this section, “frivolous” means clearly lacking any basis in fact or law. In any case in which the ~~commission~~ Arkansas Ethics Commission has dismissed a complaint, the respondent may request in writing that the ~~commission~~ Arkansas Ethics Commission make a finding as to whether or not the complaint filed was frivolous. In the event that the ~~commission~~ Arkansas Ethics Commission finds that the complaint was frivolous, the respondent may file a complaint seeking sanctions as provided in ~~§ 7-6-218(b)(4)~~ subdivision (b)(4) of this section.

(2) If, after the investigation, the ~~commission~~ Arkansas Ethics Commission finds that probable cause exists for a finding of a violation, the respondent may request a hearing. The hearing shall be a public hearing.

(3)(A) The ~~commission~~ Arkansas Ethics Commission shall keep a record of its investigations, inquiries, and proceedings.

(B)(i) Except as provided in subdivision (b)(3)(B)(ii) of this section, all proceedings, records, and transcripts of any investigations or inquiries shall be kept confidential by the ~~commission~~ Arkansas Ethics Commission, unless the respondent requests disclosure of documents relating to investigation of the case, in case of a hearing under subdivision (b)(2) of this section, or in case of judicial review of a ~~commission~~ decision of the Arkansas Ethics Commission pursuant to § 25-15-212.

(ii)(a) Through its members or staff, the ~~commission~~ Arkansas Ethics Commission may disclose confidential information to proper law enforcement officials, agencies, and bodies or as may be required to conduct its investigation.

(b) If an investigation or inquiry concerns an attorney or judge, the ~~commission~~ Arkansas Ethics Commission may, through its members or staff, disclose confidential information to the Supreme Court Committee on Professional Conduct or the Judicial Discipline and Disability Commission.

(C) Thirty (30) days after any final adjudication in which the ~~commission~~ Arkansas Ethics Commission makes a finding of a violation, all records relevant to the investigation and upon which the ~~commission~~ Arkansas Ethics Commission has based its decision, except working papers of the ~~commission~~ Arkansas Ethics Commission and its staff, shall be open to public inspection.

(4) If the ~~commission~~ Arkansas Ethics Commission finds a violation of this subchapter, § 7-1-103(a)(1)-(4), (6), or (7); 21-1-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; or Arkansas Constitution, Article 19, §§ 28-30; then the ~~commission~~ Arkansas Ethics Commission shall do one (1) or more of the following, unless good cause be shown for the violation:

(A) Issue a public letter of caution or warning or reprimand;

(B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-409, 21-8-403, and 21-8-903, impose a fine of not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000) for negligent or intentional violation of this subchapter; § 21-8-301 et seq.; the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; or Arkansas Constitution, Article 19, §§ 28-30.

(ii) The ~~commission~~ Arkansas Ethics Commission shall adopt rules governing the imposition of such fines in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(iii) All moneys received by the ~~commission~~ Arkansas Ethics Commission in payment of fines shall be deposited into the State Treasury as general revenues;

(C) Order the respondent to file or amend a statutorily required disclosure form; or

(D)(i) Report its finding, along with such information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities.

(ii) When exercising the authority provided in this subdivision (b)(4), the ~~commission~~ Arkansas Ethics Commission is not required to make a finding of a violation of the laws under its jurisdiction.

(5)(A)(i) The ~~commission~~ Arkansas Ethics Commission shall complete its investigation of a complaint filed pursuant to this section and take final action within two hundred ten (210) days of the filing of the complaint.

(ii) If a hearing under subdivision (b)(2) of this section or other hearing of adjudication is conducted, all action on the complaint by the ~~commission~~ Arkansas Ethics Commission shall be completed within two hundred forty (240) days.

(B) However, such time shall be tolled during the pendency of any civil action, civil appeal, or other judicial proceeding involving those particular ~~commission~~ Arkansas Ethics Commission proceedings.

(c) Any final action of the ~~commission~~ Arkansas Ethics Commission under this section shall constitute an adjudication for purposes of judicial review under § 25-15-212.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 8

SECTION \_\_. Arkansas Code Annotated § 8-4-203(b) is amended to read as follows to remove obsolete language and correct a reference:

(b)(1)(A) The department shall not issue, modify, renew, or transfer a National Pollutant Discharge Elimination System permit or state permit for a nonmunicipal domestic sewage treatment works without the permit applicant first paying the trust fund contribution fee required under subdivision ~~(b)(2)~~(b)(3) of this section.

(B) As used in this section, “nonmunicipal domestic sewage treatment works” means a device or system operated by an entity other than a city, town, county, or sewer improvement district that treats, in whole or in part, waste or wastewater from humans or household operations and must continuously operate to protect human health and the environment despite a permittee's failure to maintain or operate the device or system.

(C) The following are specifically exempted from the requirements of this section:

- (i) State or federal facilities;
- (ii) Schools;
- (iii) Universities and colleges; and
- (iv) Entities that continuously operate due to a connection with a city, town, county, or sewer improvement district.

~~(2) Until January 1, 2016, the department may reduce or waive the amount of the required financial assurance if the permit applicant can demonstrate to the department's satisfaction that:~~

~~(A) For a renewal permit, during the five (5) years preceding the application for a renewal permit, the nonmunicipal domestic sewage treatment works has:~~

- ~~(i) Maintained the nonmunicipal domestic sewage treatment works in continuous operation;~~
- ~~(ii) Maintained the nonmunicipal domestic sewage treatment works in~~

substantial compliance with the existing discharge permit issued by the department, which shall be demonstrated by submitting the following:

(a) ~~All discharge monitoring reports;~~

(b) ~~Evidence that the nonmunicipal domestic sewage treatment works has not exceeded the same permit effluent criteria in any two (2) consecutive monitoring periods during the previous three (3) years;~~

(c) ~~Evidence that no more than ten percent (10%) of the nonmunicipal domestic sewage treatment works' submitted discharge monitoring reports show effluent violations; and~~

(d) ~~Evidence that there have not been any administrative or judicial orders entered against the owner or operator for violations of state or federal environmental laws, rules, or regulations or permits issued by the department;~~

(iii) ~~Maintained the services of a certified wastewater treatment operator, where applicable;~~

(iv)(a) ~~Remained financially solvent, which shall be demonstrated by either:~~

(1) ~~The nonmunicipal domestic sewage treatment works federal tax returns for the five (5) years preceding the application for a renewal permit and a sworn affidavit from a corporate official or other responsible official representing the nonmunicipal domestic sewage treatment works that lists all assets and liabilities for the nonmunicipal domestic sewage treatment works; or~~

(2) ~~An independent certified public accountant's report on the owner's or operator's independently reviewed financial statements.~~

(b) ~~The review of financial statements under subdivision (b)(2)(A)(iv)(a)(2) of this section shall be conducted in accordance with the American Institute of Certified Public Accountants' Professional Standards, as they existed on January 1, 2013; and~~

(v) ~~Operated the nonmunicipal domestic sewage treatment works to prevent the discharge of waterborne pollutants in unacceptable concentrations to the surface waters or groundwater of the state as defined in the permit or as defined in the state's water quality standards; or~~

~~(B)~~—For a new permit:

~~(i) The reduction or waiver is necessary to accommodate important economic or social development in the area of the proposed nonmunicipal domestic sewage treatment works; and~~

~~(ii) The applicant has shown a history of financial responsibility and compliance with regulatory requirements.~~

~~(3)(2)~~ The department may withdraw a reduction or waiver granted under this subsection at any time if the permittee has a permit violation in three (3) or more consecutive discharge monitoring periods.

~~(4)(A)-(3)(A)~~ A permittee shall pay the trust fund contribution fee determined by the department under this subdivision ~~(b)(4)-(b)(3)~~ to the department.

(B)(i) The department shall determine the required initial and annual trust fund contribution fees for each nonmunicipal domestic sewage treatment works based on each nonmunicipal domestic sewage treatment works' actual flow and existing and projected number of residential end users.

(ii) However, the trust fund contribution fee required by the department shall not exceed two hundred dollars (\$200) per year for no-discharge permits or one thousand dollars (\$1,000) per year for discharge permits.

(C) The trust fund contribution fee required under this subdivision ~~(b)(4)~~ (b)(3):

- (i) May be collected in conjunction with any other permit fees;
- (ii) Shall be paid before a permit is issued or renewed; and
- (iii) Shall be deposited into the Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

(D) If the total amount in the fund equals or exceeds two million one hundred thousand dollars (\$2,100,000), additional trust fund contribution fees shall not be collected by the department until the total amount of the fund equals or is less than one million five hundred thousand dollars (\$1,500,000), at which time the collection of required trust fund contribution fees shall resume.

~~(5)(A)-(4)(A)~~ A permittee is responsible for ensuring that the required trust fund contribution fee is received by the department by the due date determined by the department.



(B) If the department does not timely receive the required trust fund contribution fees for a nonmunicipal domestic sewage treatment works, the department may initiate procedures to suspend or revoke the permit under which the nonmunicipal domestic sewage treatment works is operated.

(C) A permit applicant's or permit transfer applicant's failure to pay the required trust fund contribution fee assessed by the department under this section is:

- (i) Grounds for denying the permit or the permit transfer; and
- (ii) A violation of this chapter and subjects the applicant to the penalties described in § 8-4-103.

~~(6)~~ (5) Sanctions for violating this subsection may include without limitation civil penalties and suspension or revocation of a permit.

~~(7)~~ (6) The department may seek cost recovery from an owner or operator and reimbursement to the fund of any moneys expended under this section, including without limitation the institution of a civil action against the owner or operator.

~~(8)~~ (7) The department shall not directly operate or be responsible for the operation of a nonmunicipal domestic sewage treatment works.

SECTION \_\_. Arkansas Code Annotated § 8-7-907(i)(1) is amended to read as follows to correct a reference:

(i)(1) An owner or operator determined to be eligible for payment for corrective action for a release from a qualified storage tank or the department may transfer the eligibility to a subsequent owner or operator of the qualified storage tank if the department determines that the subsequent owner or operator has the financial and legal capacity to complete the corrective action and the subsequent owner or operator agrees in writing to assume responsibility for corrective action.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 9

SECTION \_\_. Arkansas Code § 9-14-806, concerning electronic funds transfer and electronic data information election, is amended to remove obsolete language, to read as follows:

(a) Employers may remit income withholding for child support by electronic funds transfer and electronic data interchange transaction.

(b) Unless otherwise notified by the Title IV-D agency, all child support payments paid by income withholding and remitted via electronic funds transfer and electronic data interchange transactions shall be sent to the circuit clerk.

(c) The Title IV-D agency shall notify the employer when a case is assigned or transferred to the clearinghouse, at which time the employer shall begin or continue income withholding for child support and may remit ~~such~~the payments to the clearinghouse by electronic funds transfer and electronic data interchange transactions.

(d)(1) The circuit clerk ~~is authorized to~~may use the Arkansas Child Support Data Tracking System for all private cases, including alimony, in which there is an order to pay child support, without charge until January 1, 1996.

(2) After January 1, 1996, if the circuit clerk elects to use the system, the clerk may contract with the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration to pay for the costs of the use and operational expenses of the system.

SECTION \_\_. Arkansas Code § 9-27-368(b), concerning risk and needs assessments, is amended to clarify language as follows:

(b) A juvenile division circuit court judge ~~shall have~~has the discretion to designate either a trained juvenile intake or probation officer to conduct the validated risk and needs assessment in the court of the circuit court judge.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 11

SECTION \_\_. Arkansas Code §§ 11-7-401—11-7-402 are repealed to remove obsolete references to the now-abolished Coal Mine Examining Board, the powers, duties, and functions of which were transferred to the Director of the Department of Labor by Acts 1989, No. 536, § 2.

~~11-7-401. Coal Mine Examining Board—Members, organization, and proceedings.~~

~~(a)(1) There shall be appointed by the Governor a board of four (4) examiners appointed for a term of four (4) years:~~

~~(A) Two (2) of the board members shall be practical miners who have had at least eight (8) years' experience as miners in mines of Arkansas or elsewhere; and~~

~~(B) Two (2) of the members shall be operators of coal mines in the State of Arkansas or representatives thereof.~~

~~(2) One (1) additional member of the board shall be selected by the four (4) appointed members.~~

~~(b) The members of the examining board may receive expense reimbursement in accordance with § 25-16-901 et seq.~~

~~(c) Immediately after their appointment, the examiners shall meet and organize by selecting a chair and secretary. The secretary shall keep on file all examination questions and their answers and all examination records and papers belonging to the board.~~

~~(d) The examining board shall convene upon call of the chair and, except in case of emergency, notices shall be published in one (1) newspaper of general circulation in each county in which there are coal mines, at least five (5) days before the day of the meeting.~~

~~11-7-402. Coal Mine Examining Board—Power to administer oaths.~~

~~(a) In order to more effectively carry out the intentions and purposes of this section and §§ 11-7-409—11-7-414, members of the Coal Mine Examining Board shall have the power to administer oaths to any and all persons who are applicants, or who may vouch, in any manner, for the previous service or qualifications of any applicant in order to obtain for him or her a certificate pursuant to this section and §§ 11-7-409—11-7-414.~~

~~(b) Any person who shall falsely testify or swear to any matter material to such examination or to the service or qualification of any applicant shall be deemed guilty of perjury and upon conviction shall be subject to the penalties prescribed by the laws of the State of Arkansas against those who commit perjury.~~

SECTION \_\_. Arkansas Code § 11-7-406 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, to read as follows:

11-7-406. Fire bosses, mine foremen, etc. — Revocation of certificate.

(a) All certificates issued pursuant to this subchapter may be revoked by the ~~board of examiners~~ Director of the Department of Labor after a hearing upon due notice to the holder of the certificate and upon written charges preferred by the ~~board~~ director or by some interested person for violation of §§ ~~11-7-401 and~~ 11-7-403 — 11-7-407.

(b)(1) A complaint may be filed against the holder of a certificate for intoxication, mental disabilities, neglect of duty, or other sufficient cause.

(2) The holder of the certificate so cancelled shall have the right to appear before the ~~examining board~~ director after the expiration of three (3) months and be reexamined if he or she shall first satisfy the ~~board~~ director that the incapacity complained of shall have ceased to exist.

SECTION \_\_. Arkansas Code § 11-7-410(a), concerning the certification of coal miners, is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, to read as follows:

11-7-410. Coal miners — Certificate required.

(a) It shall be unlawful for any person to work as a coal miner in any coal mine in this state without first having a certificate of qualification and competency to do so from the ~~Coal Mine Examining Board~~ Director of the Department of Labor of this state, nor shall any person, firm, or corporation employ as a coal miner in his or her coal mine in the State of Arkansas any person who does not hold a certificate, nor shall any mine foreman, overseer, or superintendent

permit or suffer any person to be employed under him or her, or in any coal mine under his or her charge or supervision, as a coal miner in this state, except as provided in this act, who does not hold a certificate of qualification.

SECTION \_\_. Arkansas Code § 11-7-411 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, to read as follows:

11-7-411 Coal miners — Examination — Qualifications — Certificates.

(a) The ~~Coal Mine Examining Board~~ Director of the Department of Labor of this state shall hold sufficient examinations each year in places to be determined by the board director, which, in ~~its~~ his or her opinion, will be most convenient to applicants desiring to engage in the business of coal mining.

(b) All examinations held by the ~~Coal Mine Examining Board~~ director shall be conducted in the English language and shall be of a practical nature, so as to determine the competency and qualifications of each applicant.

(c) The ~~board~~ director shall:

(1) ~~examine~~ Examine under oath all persons who may apply for certificates, except those regularly employed in the State of Arkansas and exempted under the provisions of § 11-7-409, as to their previous experience as coal miners; and

(2)(A) ~~grant~~ Grant certificates of competency and qualification to such applicants as ~~it~~ the director may find to be qualified.

(B) The certificate, when so issued, shall entitle the holder thereof to be employed as, and to do the work of, a coal miner in this state.

(d)(1) ~~No~~ A certificate of competency and qualification shall not be issued or delivered to any person under this act, unless:

(A) He or she first shall produce evidence of having had not less than two (2) years of practical experience working as a coal miner or working with a coal miner; and

(B) He or she is competent to mine coal in the coal mines of this state.

(2) In no case shall the applicant be deemed competent or qualified under this act unless he or she appears in person before the ~~examining board~~ director and orally answers

intelligently and correctly at least twelve (12) practical questions propounded to him or her by the ~~board~~ director pertaining to requirements and qualifications of a practical coal miner.

(e) The ~~board~~ Director shall keep an accurate record of its proceedings ~~and meetings~~ and in the record shall show a correct detailed account of the examination of each applicant with the questions asked and his or her answers, and ~~at each of its meetings, the board~~ the Director shall keep the records open for the inspection of the parties in interest.

(f) ~~No~~ A miner's certificate granted under the provisions of this act shall not be transferable, and any effort to transfer the certificate shall be deemed a violation of this act.

(g) The certificate shall be issued ~~only at meetings of the board, and the certificate shall not be legal unless signed by at least a majority of the members of the board~~ and signed by the director.

(h)(1) Each applicant for the certificate provided for ~~herein~~ under this section shall pay a fee of fifty cents (50¢) to the ~~board~~ director at the time of making application and, if successful in the examination, shall pay an additional fee of fifty cents (50¢) for the certificate.

(2) All fees collected from ~~these~~ applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

SECTION \_\_. Arkansas Code § 11-7-412 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, and to make stylistic changes to read as follows:

11-7-412. Coal miners — Temporary permit — Grandfather clause.

(a) A person making application for a coal miner's certificate of competency and qualification shall be granted a temporary permit to work until such time as an examination is held by the ~~board~~ Director of the Department of Labor if, in the judgment of the ~~board~~ director, he or she is so qualified.

(b) ~~Any person regularly employed before June 9, 1949, in any coal mine in the State of Arkansas, shall be entitled to receive a certificate of competency under this act without further notice or examination, and to pay a fee of fifty cents (50¢) for the certificate.~~

(~~e~~) All fees collected from the applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

SECTION \_\_. Arkansas Code § 11-7-414 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, to read as follows:

11-7-414. Coal miners — Duplicate certificate — Revocation of certificate.

~~The Coal Mining Examining Board~~ Director of the Department of Labor shall possess powers to issue duplicate certificates and to revoke certificates in all cases as provided in §§ 11-7-405 and 11-7-406.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 12

SECTION \_\_. Arkansas Code Annotated § 12-8-102(b)(3) is amended to read as follows to remove obsolete language:

~~(3) The members of the commission in office on July 30, 1999, shall continue to serve their regular terms. As terms expire and vacancies occur, appointments to the commission shall be made in such a manner as to assure the commission members represent the different areas of the state as required by this subsection.~~

SECTION \_\_. Arkansas Code Annotated § 12-9-103(b)(2)(B)(i) is amended to read as follows to clarify its application:

(i) ~~Sixty~~ At least sixty (60) years of age and shall represent the elderly;

SECTION \_\_. Arkansas Code Annotated § 12-9-117 is amended to read as follows to remove duplicative language:

12-9-117. Award of pistol upon retirement or death of a certified law enforcement officer employed by the commission.

~~(a)~~ When a certified law enforcement officer employed by the Arkansas Commission on Law Enforcement Standards and Training retires from service or dies while still employed with the commission, in recognition of and appreciation for the service of the retiring or deceased certified law enforcement officer, the commission may award the pistol carried by the certified law enforcement officer at the time of his or her death or retirement from service to:

(1) The certified law enforcement officer; or

(2) The certified law enforcement officer's spouse if the spouse is eligible under applicable state and federal laws to possess a firearm.

~~(b)(1) A certified law enforcement officer employed by the commission may retain his or her pistol he or she carried at the time of his or her retirement from service.~~

~~(2) If the certified law enforcement officer dies while he or she is employed by the commission, his or her spouse may receive or retain the pistol carried by the certified law enforcement officer at the time of his or her death, if the spouse is eligible under applicable~~



~~state and federal laws to possess a firearm.~~

SECTION \_\_. Arkansas Code Annotated § 12-12-212(a) is amended to read as follows to conform the culpable mental state required for a criminal offense with § 5-2-202 and make stylistic changes:

(a) A person is guilty of a Class A misdemeanor upon conviction if the person knowingly:

(1) ~~Knowingly accesses~~ Accesses information or ~~willfully~~ obtains information collected and maintained under this subchapter for a purpose not specified by this subchapter; or

(2) ~~Knowingly releases~~ Releases or discloses information maintained under this subchapter to another person who lacks authority to receive the information.

SECTION \_\_. Arkansas Code Annotated § 12-12-402(e)(1) is amended to read as follows to clarify its application and correct references:

(e) The victim shall not be transferred to another medical facility unless:

(1) ~~(A) The~~ Either:

(A) The victim or a parent or guardian of a victim under eighteen (18) years of age requests the transfer; or

(B) A physician, or other qualified medical personnel when a physician is not available, has signed a certification that the benefits to the patient's-victim's health would outweigh the risks to the patient's-victim's health as a result of the transfer; and

SECTION \_\_. Arkansas Code Annotated § 12-12-1002(b) is amended to read as follows to conform the culpable mental state required for a criminal offense with § 5-2-202 and make stylistic changes:

(b) A person is guilty of a Class A misdemeanor upon conviction if the person knowingly:

(1) ~~Knowingly accesses~~ Accesses information or ~~willfully~~ obtains information collected and maintained under this subchapter for a purpose not specified by this subchapter; or

(2) ~~Knowingly releases~~ Releases or discloses information maintained under this subchapter to another person who lacks authority to receive the information.

SECTION \_\_. Arkansas Code Annotated § 12-12-1404(d)(1) is amended to read as follows to remove obsolete language:

(d)(1) ~~By January 1, 2006, the~~ The commission shall promulgate rules that will set significant standards for all training required in this section.

SECTION \_\_. Arkansas Code Annotated § 12-12-1405(c) is amended to read as follows to remove obsolete language:

(c) The Attorney General annually shall report statewide statistics on complaints concerning racial profiling received under this section during a year no later than October 1 of the next year to the Legislative Council ~~and the Task Force on Racial Profiling~~.

SECTION \_\_. Arkansas Code Annotated § 12-12-1717(f)(3) is amended to read as follows to correct a reference:

(3) This ~~subchapter~~ subsection does not abrogate the right of discovery in a criminal case under the Arkansas Rules of Criminal Procedure or other applicable law.

SECTION \_\_. Arkansas Code Annotated § 12-12-1718(g)(3) is amended to read as follows to correct a reference:

(3) This ~~subchapter~~ subsection does not abrogate the right of discovery in a criminal case under the Arkansas Rules of Criminal Procedure or other applicable law.

SECTION \_\_. Arkansas Code Annotated § 12-12-1720(b)(1)(C) is amended to read as follows to correct a grammatical error and clarify a criminal offense:

(C)(i) ~~Knowingly fails to make a report or cause a report to be made in~~ the manner and time provided in this subchapter to the adult and long-term care facility resident maltreatment hotline.

(ii) ~~Knowingly fails to cause a report to be made in the manner and time provided in this subchapter to the adult and long-term care facility resident maltreatment hotline.~~

SECTION \_\_. Arkansas Code Annotated § 12-12-1803(b)(4)(B) is amended to read as follows to correct a reference:

(B) An automatic license plate reader system used under subdivision (b)(4)(A) of this section shall be installed at an entrance ramp at a weigh station facility for the review of a commercial motor vehicle entering the weigh station facility.

SECTION \_\_. Arkansas Code Annotated § 12-18-103 is amended to read as follows to add a definition of a term that was defined in multiple places in the chapter:

(27) “Died suddenly and unexpectedly” means a child death that was not caused by a known disease or illness for which the child was under a physician's care at the time of death, including without limitation a child death as a result of the following:

- (A) Sudden infant death syndrome;
- (B) Sudden unexplained infant death;
- (C) An accident;
- (D) A suicide;
- (E) A homicide; or
- (F) Other undetermined circumstance.

SECTION \_\_. Arkansas Code Annotated § 12-18-303(a)(1)(B) is amended to read as follows to correct a reference:

(B) The death of a child ~~that:~~

~~(i) Is sudden and unexpected; and~~

~~(ii) Was who died suddenly and unexpectedly and the death was not~~

caused by a known disease or illness for which the child was under a physician's care at the time of death; or

SECTION \_\_. Arkansas Code Annotated § 12-18-402(a)(1)(C) is amended to read as follows to remove language that is being codified at § 12-18-103:

~~(C)(i) Died suddenly and unexpectedly.~~

~~(ii) —As used in subdivision (a)(1)(C)(i) of this section, “died suddenly and unexpectedly” means a child death that was not caused by a known disease or illness for which the child was under a physician's care at the time of death, including without limitation child deaths as a result of the following:~~

~~(a) —Sudden infant death~~

~~syndrome; (b) Sudden  
unexplained infant death; (c) An  
accident;  
(d) A suicide;  
(e) A homicide; or  
(f) Other undetermined circumstance; or~~

SECTION \_\_. Arkansas Code Annotated § 12-18-602(b)(2)(C) is amended to read as follows to remove language that is being codified at § 12-18-103:

~~(C)(i) A child has died suddenly and unexpectedly.~~

~~(ii) As used in subdivision (b)(1)(C)(i) of this section, “died suddenly and unexpectedly” means a child death that was not caused by a known disease or illness for which the child was under a physician's care at the time of death, including without limitation child deaths as a result of the following:~~

~~(a) Sudden infant death  
syndrome; (b) Sudden  
unexplained infant death; (c) An  
accident;  
(d) A suicide;  
(e) A homicide; or  
(f) Other undetermined circumstance.~~

SECTION \_\_. Arkansas Code Annotated § 12-18-620(d) is amended to read as follows to correct references:

(d) The department may provide information, including protected health information, to a person or agency that provides services such as medical examination of, an assessment interview with, or diagnosis of, care for, treatment of, or supervision of a victim of child maltreatment, a juvenile offender, or an underaged juvenile ~~aggressor~~ offender.

SECTION \_\_. Arkansas Code Annotated § 12-18-623(a)(5) and (6) are amended to read as follows to correct a grammatical error and references:

(5) The Department of Arkansas State Police investigator:

(A) Has ~~interviewed~~ either:

(i) Interviewed the person who made the report to the Child Abuse Hotline; or ~~(B) Has made~~ (ii) Made a good faith effort to contact the person who made the report to the hotline but is unable to interview the person; and

~~(C)~~ ~~(B)~~ Has not identified another child maltreatment or health or safety factor regarding the ~~victim~~ child identified as the victim; and

(6) The Department of Arkansas State Police investigator interviewed a collateral witness and reviewed medical, school, and mental health records that are related to the allegations when the child identified as the victim was unable to effectively communicate.

SECTION \_\_. Arkansas Code Annotated § 12-18-909(e)(1) is amended to read as follows to correct a reference:

(e)(1) The Department of Human Services and the Department of Arkansas State Police may provide information, including protected health information, to a person or agency that provides services such as medical examination of, an assessment interview with, or diagnosis of, care for, treatment of, or supervision of a victim of child maltreatment, a juvenile offender, or an underaged juvenile ~~aggressor~~ offender.

SECTION \_\_. Arkansas Code Annotated § 12-26-106(3) is amended to read as follows to correct a reference:

(3) Advise government officials and other appropriate persons of deficiencies in the criminal detention facilities and juvenile detention facilities and make recommendations for improvements;

SECTION \_\_. Arkansas Code Annotated § 12-26-107 is amended to read as follows to correct references:

12-26-107. Inspection of facility — Report.

(a) Except as otherwise provided in this chapter, each criminal detention facility review committee shall visit and inspect each criminal detention facility and each juvenile detention facility, if any, in its judicial district at least annually for the purpose of determining the conditions of confinement, the treatment of prisoners, and whether the criminal detention

facilities and juvenile detention facilities comply with the minimum standards established pursuant to this chapter.

(b)(1) A written report of each inspection shall be made within thirty (30) days following such inspection to the chief circuit judge for the judicial district within which the criminal detention facility or juvenile detention facility is located and to the county judge or the governing body of the political subdivision whose criminal detention facility or juvenile detention facility is the subject of the written report.

(2) The written report shall specify those respects in which the criminal detention facility or juvenile detention facility does not comply with the required minimum standards.

SECTION \_\_. Arkansas Code Annotated § 12-26-108 is amended to read as follows to correct references and make stylistic changes:

12-26-108. Failure to meet minimum standards — Procedure.

(a)(1) If an inspection under this chapter discloses that the criminal detention facility or juvenile detention facility does not meet the minimum standards established by the Criminal Detention Facilities Review Coordinator, the criminal detention facility review committee shall send notice, together with the inspection report, to the governing body responsible for the criminal detention facility or juvenile detention facility and to the ~~duly constituted~~ grand jury for the county in which the criminal detention facility or juvenile detention facility is located.

(2) A copy of the notice required by this chapter shall also be sent to the chief circuit judge of the judicial district in which the criminal detention facility or juvenile detention facility is located.

(b) The appropriate governing body or the grand jury, or both, shall promptly meet to consider the inspection report, and the committee chair shall appear to advise and consult concerning appropriate corrective action.

(c) The governing body or the grand jury, or both, shall then initiate appropriate corrective action within six (6) months of the receipt of the inspection report or may voluntarily close the criminal detention facility or juvenile detention facility or the objectionable portion of the criminal detention facility or juvenile detention facility.

(d)(1) If the governing body or the grand jury fails to initiate corrective action within

six (6) months after receipt of ~~such the~~ inspection report, or fails to correct the disclosed conditions, or fails to close the criminal detention facility or juvenile detention facility or the objectionable portion ~~thereof of the~~ criminal detention facility or juvenile detention facility, the committee is ~~authorized to~~ may petition a circuit court within the judicial district in which the criminal detention facility or juvenile detention facility is located to close the criminal detention facility or juvenile detention facility.

(2) The petition shall include the inspection report regarding the criminal detention facility or juvenile detention facility.

(3) The local governing body shall then have thirty (30) days to respond to the petition and shall serve a copy of the response on the committee chair by certified mail, return receipt requested.

(e) Thereafter, a hearing shall be held on the petition before the circuit court, and an order rendered by ~~such the~~ circuit court which:

(1) Dismisses the petition of the committee;

(2) Directs that corrective action be initiated in some form by the local governing body or by the grand jury with respect to the criminal detention facility or juvenile detention facility in question; or

(3) Directs that the criminal detention facility or juvenile detention facility be closed.

(f) An appeal from the decision of the circuit court may be taken ~~to the Supreme Court~~ as provided in the Arkansas Rules of Appellate Procedure.

SECTION \_\_. Arkansas Code Annotated § 12-27-122(b) is amended to read as follows to remove obsolete language:

(b) Payments made by the department from the work-release cash funds, Construction Fund Deficiency Account, Prisoner Housing Contract Account, and the Regional Facilities Operations Account which are made for bonded indebtedness or leases of regional correction facilities, or both, are specifically exempt from the provisions of §§ 19-4-801 — 19-4-803, ~~19-4-804 [repealed]~~, 19-4-805, and 19-4-806.

SECTION \_\_. Arkansas Code Annotated § 12-27-128(a) is amended to read as

follows to remove obsolete language:

(a) There is created in accordance with §§ 19-4-801 — 19-4-803, ~~19-4-804 [repealed]~~, 19-4-805, 19-4- 806 and § 19-6-101 et seq. a cash fund entitled the Department of Correction Nontax Revenue Receipts Fund to consist of receipts for telephone calls from coinless telephones located on Department of Correction grounds, and from other nontax receipts not previously identified to a fund of deposit.

SECTION \_\_. Arkansas Code Annotated § 12-27-142(c) is amended to read as follows to remove obsolete language

~~(c) A medical services contract in existence on August 12, 2005, may be extended to a ten-year contract.~~

SECTION \_\_. Arkansas Code Annotated § 12-27-145(b)(1)(G) is amended to read as follows to correct a reference:

(G) All major disciplinary violations while the ~~inmate~~ probationer, parolee, or other person under the supervision of the Department of Community Correction was incarcerated and the date of the major disciplinary violation disposition;

SECTION \_\_. Arkansas Code Annotated § 12-29-106(a)(2) is amended to read as follows to clarify a criminal offense:

(2) ~~Whoever shall violate the provisions of this section shall be guilty of a A violation of this section is an unclassified misdemeanor and shall on conviction be fined punishable by a fine not exceeding one hundred dollars (\$100) or imprisoned in the county jail and imprisonment not exceeding thirty (30) days, or both fined and imprisoned.~~

SECTION \_\_. Arkansas Code Annotated § 12-29-110(b)(1) is amended to read as follows to clarify a criminal offense:

(b)(1) ~~Any person violating the provisions of this section shall be guilty of a A violation of this section is an unclassified felony and upon conviction shall be punished by imprisonment in the department punishable by imprisonment for not less than one (1) year nor more than five (5) years.~~



SECTION \_\_. Arkansas Code Annotated § 12-29-506(b) is amended to read as follows to correct references:

(b) However, the Attorney General may refer to the prosecuting attorney of the county from which the inmate in the Department of Correction or the person residing in a Department of Community Correction facility was sentenced, or to the prosecuting attorney of the county in which any property or estate of ~~any such the inmate or person~~ the inmate or person is located, to investigate or assist in legal proceedings to obtain the reimbursements for the cost of care of ~~such prisoners~~ the inmate or person, as authorized in this subchapter.

SECTION \_\_. Arkansas Code Annotated § 12-41-105(a)(1) is amended to read as follows to correct a reference:

(a)(1) Commissions derived from prisoner telephone services and profits earned from prisoner commissary services provided in the various county and regional detention facilities in the state shall be deposited with the county treasurer of the county in which the county or regional detention facility is located, and the county treasurer shall credit the funds to the county sheriff's office fund.

SECTION \_\_. Arkansas Code Annotated § 12-41-105(a)(3) is amended to read as follows to clarify its application:

(3) Arkansas Legislative Audit shall review actions described in this subsection for substantial compliance with this section.

SECTION \_\_. Arkansas Code Annotated § 12-42-102 is amended to read as follows to clarify a criminal offense:

12-42-102. Penalties.

(a) Any person, ~~firm, or corporation, and any county judge or mayor of any city or incorporated town~~ who works any prisoner or enters into a contract to lease and work any prisoner convicted of a misdemeanor, ~~when the punishment is fixed by fine or imprisonment in any county or city jail in violation of the provisions of this section or §§ 12-42-104 — 12-42-107, shall be upon conviction is guilty of a~~ an unclassified misdemeanor punishable.

(b) ~~Upon conviction, he or she shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) and may be imprisoned~~

imprisonment not exceeding ninety (90) days.

SECTION \_\_. Arkansas Code Annotated § 12-50-106 is amended to read as follows to correct a reference and make stylistic changes:

(d) Contracts awarded under ~~the provisions of~~ this section, including contracts for the provision of correctional services or for the lease or use of public lands or buildings for use in the operation of state or local facilities, may be entered into for a period of up to twenty (20) years, subject to the requirement for annual appropriation of funds by each political subdivision and subject to the requirement of ~~biennial~~ annual appropriations by the state.

SECTION \_\_. Arkansas Code Annotated § 12-50-109(a)(2)(A) is amended to read as follows to correct a reference:

(2)(A) Any documents relating to those pledges shall state that the pledge is subject to annual appropriation by the governing body or ~~biennial~~ annual appropriation of the General Assembly, respectively.

SECTION \_\_. Arkansas Code Annotated § 12-64-406(c)(1) is amended to read as follows to correct grammatical errors:

(c)(1) Summary courts-martial consisting of one (1) commissioned officer may be convened by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where the troops are on duty, or of a brigade, regiment, wing, group, detached battalion, squadron, company, or other detachment ~~may convene a summary court-martial consisting of one (1) commissioned officer~~.

SECTION \_\_. Arkansas Code Annotated § 12-64-710(2) is amended to read as follows to correct a grammatical error:

(2) Military counsel of the accused's own selection if reasonably available; or

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 13

SECTION \_\_. Arkansas Code § 13-5-1004(a), concerning the procedure for obtaining ownership of an abandoned loan, is amended to read as follows:

(a) By complying with subsection (b) or subsection (c) of this section, a museum may obtain ownership of a loan if:

(1) The loan agreement has expired; or

(2) Both:

(A) The loan has been in the museum's custody for more than ten (10) years; and

(B) The loan agreement does not provide for a longer term for the loan or another disposition.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 14

SECTION \_\_. Arkansas Code § 14-14-1003 is amended to remove language made obsolete by Arkansas Constitution, Amendment 80, to read as follows:

14-14-1003. Appeals.

Appeals from all judgments of the county courts ~~or courts of common pleas, when established,~~ may be taken to the circuit court, under such restrictions and regulations as may be prescribed by law.

SECTION \_\_. Arkansas Code § 14-14-1204(c)(1), concerning compensation of elected county officers, is amended to remove language made obsolete by Arkansas Constitution, Amendment 80, to read as follows:

(c)(1) The annual salary of a county judge shall be in compensation for his or her services as the executive and administrator for the county, as judge of the county court, ~~as judge of the court of common pleas, where established,~~ as presiding officer of the quorum court, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

SECTION \_\_. Arkansas Code § 14-14-1301(b)(1), concerning quorum court district and township officers, is amended to remove language made obsolete by Arkansas Constitution, Amendment 80, to read as follows:

(1)(A) There shall be elected in each of the quorum court districts of the counties of this state one (1) justice of the peace who shall ~~preside over the justice of the peace courts and~~ perform such judicial duties as may be prescribed by law and who shall serve as a member of the quorum court of the county in which elected and shall perform such legislative duties as may be prescribed by law.

(B) Each justice shall be a qualified elector and a resident of the district for which he or she is elected.

SECTION \_\_. Arkansas Code § 14-37-111(c), concerning the reduction of a city to a lower grade, is amended to remove language made obsolete by Arkansas Constitution, Amendment 80, to read as follows:

(c) ~~Whenever a city of the first class is reduced to the grade of a city of the second class or an incorporated town, the mayor of the city shall automatically become the police judge, and the office of police judge shall automatically be abolished.~~ All other officers of a city whose grade ~~may be~~ is reduced shall continue in office until the next general election for the city or town.

SECTION \_\_. Arkansas Code § 14-42-109 is amended to remove references to police judges made obsolete by Arkansas Constitution, Amendment 80, to read as follows:

14-42-109. Removal of elective or appointed officers.

(a)(1)(A) If the mayor ~~or police judge~~, member of the city council, or any other elective officer of any city of the first class or second class or incorporated town in this state shall wilfully and knowingly fail, refuse, or neglect to execute, or cause to be executed, any of the laws or ordinances within their jurisdiction, they shall be deemed guilty of nonfeasance in office.

(B)(i) It shall be the duty of the circuit court of any county within which any officer may be commissioned and acting, upon indictment charging any such officer with nonfeasance in office, to hear and determine the charges.

(ii) If, upon hearing, the charges are proved to be true, the court shall enter a judgment of record removing the guilty officer from office.

(2) The council of any city or incorporated town may provide, by proper ordinance, for the removal of any appointive officer upon a majority vote of the council.

(b)(1) Upon the entering of judgment as provided in subdivision (a)(1) of this section, the office of mayor ~~or police judge~~ shall become vacant.

(2)(A) It shall be the duty of the clerk of the circuit court to immediately make out and deliver to the Governor a true and certified copy of the judgment.

(B) Thereupon, it shall be the duty of the Governor to at once appoint and commission a mayor ~~or police judge~~ for the city or town to fill the vacancy until his or her successor is elected at the next regular election and qualified.

(c) Any mayor ~~or police judge~~ so removed from office shall have the right of appeal to the Supreme Court. However, no appeal shall have the effect of suspending the judgment of removal of the circuit court. If the judgment is reversed, it shall have the effect of reinstating the officer to his or her office.

SECTION \_\_. Arkansas Code § 14-47-140(a)(3)(B), concerning authorization for the election and appointment of certain municipal officials, is amended to conform the language of the subdivision with Arkansas Constitution, Amendment 80, to read as follows:

(B) In municipalities that maintain ~~municipal~~ district courts ~~or police courts~~, the ~~municipal judge, police judge, and the clerk of both courts~~ district court judge and the district court clerk shall be elected and appointed in the manner prescribed by law.

SECTION \_\_. Arkansas Code § 14-54-104(1)(B)(i)(b)(1), concerning additional powers of cities of the first class, is amended to correct a reference as a necessary result of Arkansas Constitution, Amendment 80, to read as follows:

(b)(1) In either case, the city shall have power to enforce obedience to the sidewalk ordinance, order, resolution, or notice upon the owners or occupants failing or refusing to obey them by the imposition of fines upon conviction thereof in the ~~police~~ district court, in like manner and with like consequences and effect as for a violation of any other ordinance of the city.

SECTION \_\_. Arkansas Code § 14-54-104(3)(B), concerning additional powers of cities of the first class, is amended to correct a reference as a necessary result of Arkansas Constitution, Amendment 80, to read as follows:

(B) No statute of limitations or lapse of time during which any obstruction or encroachment may have existed or been continued shall be permitted as a bar or defense against any proceeding or action to remove or abate it or to punish for its continuance after an order has been made by the city council or the ~~police~~ district court for its removal or abatement.

SECTION \_\_. Arkansas Code § 14-54-104(4)(D), concerning additional powers of cities of the first class, is amended to correct a reference as a necessary result of Arkansas Constitution, Amendment 80, to read as follows:

(D) To prevent, abate, or remove nuisances of every kind, and to declare what are nuisances, and also to punish the authors or continuers thereof by fine or imprisonment, or both. However, no previous declaration shall be necessary as to any matter, act, or thing that would have been a nuisance at common law, and all nuisances may be proceeded against either by order of the city council or prosecution in the ~~police~~ district court.

SECTION \_\_. Arkansas Code § 14-55-603 is amended to correct a reference as a necessary result of Arkansas Constitution, Amendment 80, to read as follows:

14-55-603. Outside work for jailed persons.

Prisoners confined in the county jail or city prison, by sentence of the ~~city or police~~ district court, for a violation of a city or town bylaw, ordinance, or regulation, may, by ordinance, be required to work out the amount of all fines, penalties, forfeitures, and costs at the rate prescribed in § 16-90-108, on the streets or other improvement under the control of the city council.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 15

SECTION \_\_. Arkansas Code Annotated § 15-4-3704(o) is amended to read as follows to clarify its application:

(o) A simple majority of members ~~in attendance~~ shall constitute a quorum.

SECTION \_\_. Arkansas Code Annotated § 15-4-3705(a)(3)(B) is amended to read as follows to correct a grammatical error:

(B) At least one (1) chief elected official; and

SECTION \_\_. Arkansas Code Annotated § 15-45-302(b) is amended to read as follows to clarify its application:

(b) The remaining two (2) members shall; ~~will be appointed by the Governor subject to confirmation by the Senate for three-year terms. The Governor shall appoint two (2) members after consulting private conservation organizations from within the state~~

(1) Be appointed by the Governor subject to confirmation by the Senate after the Governor consults private conservation organizations from within the state; and

(2) Serve terms of three (3) years .

SECTION \_\_. Arkansas Code Annotated § 15-21-504(n) is amended to read as follows to correct references:

(n)(1) The board shall provide mapping services to an entity undertaking an:

(A) Annexation, consolidation, or detachment proceeding under § 14-40-101 et seq.; or

(B) Incorporation or disincorporation proceeding under ~~§ 14-38-116~~ § 14-38-101 et seq.

SECTION \_\_. Arkansas Code Annotated § 15-76-302(9)(A) is amended to read as follows to correct references:



(A) A brine production unit or brine expansion unit containing one (1) or more production wells is that part of the actual production of brine from the brine production unit or brine expansion unit which is in the same proportion to the total production of brine from the brine production unit or brine expansion unit as the interest of the owner in the brine of the brine production unit or brine expansion unit expressed in surface acres is to the total surface acreage of the brine production unit or brine expansion unit; and

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 16

SECTION \_\_. The introductory language of Arkansas Code Annotated § 16-17-802 is amended to read as follows to remove obsolete language:

If a person who has been convicted of more than one (1) related misdemeanor offense in district court ~~or city court~~ shall present otherwise lawfully sufficient documents to the circuit clerk for an appeal of the related convictions, accompanied by an affidavit of the person or his or her attorney stating that the convictions arise out of the same set of facts and circumstances, the circuit clerk shall:

SECTION \_\_. Arkansas Code Annotated § 16-90-1304(b)(6)(A)-(B) is amended to read as follows to clarify its application:

(6)(A) The sentencing court shall consider the objections against the person based solely on the information contained in the petition and any objection filed by the prosecuting attorney or board.

(B) The sentencing court shall determine, based on a preponderance of the evidence, whether the person should not be discharged from the sentence because, if the information contained in the petition or objection filed had been known to the department, the department would have ordered the forfeiture of any of the discharge credit earned to that point or if insufficient evidence exists that would warrant the forfeiture of discharge credit.

SECTION \_\_. Arkansas Code Annotated § 16-98-306(e) is amended to read as follows to correct a reference:

(e) Each drug court program shall provide to the Specialty Court Program Advisory Committee all information requested by the ~~Division of Drug Court Programs~~ Specialty Court Program Advisory Committee.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 16

SECTION \_\_. Arkansas Code § 17-14-201 (a)(1), concerning composition, membership, and chair is amended to correct parallelism as follows:

(a) There is ~~hereby~~ created the Arkansas Appraiser Licensing and Certification Board, to be composed of ten (10) members as follows:

~~(1)(A) Seven (7) practicing certified or licensed appraisers, with the exception that at all times at~~ as follows:

(A) At least five (5) of the appraiser members of the board shall be state-certified appraisers.

(B) Of the seven (7) practicing appraiser members, no ~~Of the seven (7) practicing appraiser members, no~~ No more than two (2) shall reside in the same congressional district of the four (4) Arkansas congressional districts as they now exist.

(C) Additionally, the seven ~~Additionally, the seven~~ Seven (7) practicing appraiser members shall be representative of the various disciplines found in the appraisal profession, including without limitation residential appraisal, commercial and industrial appraisal, forestry and timberland appraisal, rural appraisal, and any other appraisal discipline that may be affected by the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

SECTION \_\_. Arkansas Code § 17-86-303, concerning massage therapist, is amended to clarify the department name, to read as follows:

(a) In order to be licensed as a massage therapist, the person seeking licensure shall:

(1) Furnish to the Department of Health satisfactory proof that he or she is eighteen ~~(18)~~ years of age or older and of good moral character;

(2) Make oath that he or she has not been convicted of, found guilty of, or entered a plea of guilty or nolo contendere to any offense that would constitute a felony or constitute the offense of prostitution, either in this state or the United States, and submit a signed authorization to investigate and have information released to the Department of Health;

(3) Present the following issued in the same name as the applicant or licensee:

(A) A valid photo identification or driver's license, or both; and

(B) A Social Security card ~~issued in the same name as the applicant or licensee;~~

(4)(A) Present a high school diploma, high school equivalency diploma approved by the Department of Career Education, or college transcript and credentials issued by a department- accepted massage therapy school or a like institution with no less than five hundred (500) in- classroom hours of instruction.

(B) ) An applicant shall not submit his or her transcript directly to the ~~department office of the~~ Department of Health.

(C) An applicant shall have the massage therapy school submit the transcript directly to the ~~department office of the~~ Department of Health.

(D)(i) If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why it may not be obtained.

(ii) Other documentation of credentials may be submitted and accepted for licensure at the discretion of the ~~department~~ Department of Health;

(5) Furnish to the ~~department~~ Department of Health satisfactory proof of passing an examination recognized and approved by the ~~department~~ Department of Health;

(6) Present a negative test for tuberculosis that is current at the time of licensure; and

(7) Pay the specified fees, which shall accompany a completed notarized application to the ~~department~~ Department of Health.

(b) Fees are as follows:

(1) Application fee . . . . \$75.00 Nonrefundable

(2) Original license fee.....80.00

(3) Biennial renewal..... 80.00

(4) Examination fee or reexamination fee ..... 25.00

(5) Duplicate license fee.....10.00

(6) Pocket card fee not to exceed ten dollars (\$10.00).

(c) A person shall not practice massage therapy until his or her official license has been received from the ~~department~~ Department of Health.

(d) A person who attempts to procure or does procure a license in violation of this section shall be subject to the penalties provided for in § 17-86-103.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 19

SECTION \_\_. Arkansas Code § 19-5-915 is repealed because the program that the fund was created to support has itself been repealed.

~~19-5-915. United States Olympic Committee Program Trust Fund.~~

~~(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the United States Olympic Committee Program Trust Fund.~~

~~(b) Such fund shall consist of income tax checkoff contributions and any gifts, grants, bequests, devises, and donations, there to be used for the United States Olympic Committee Program as set out in § 26-51-441.~~

SECTION \_\_. Arkansas Code § 19-5-1140(c)(2), concerning the Water Performance Bond Fund, is amended to correct a term for consistency of usage within the section and to conform the term as otherwise defined in related material in § 8-4-203, to read as follows:

(2) Maintain and operate a nonmunicipal domestic sewage treatment works.

SECTION \_\_. Arkansas Code § 19-5-1142(c)(2)(C), concerning the Nonmunicipal Domestic Sewage Treatment Works Trust Fund, is amended to correct a term for consistency of usage within the section and to conform the term as otherwise defined in related material in § 8-4-203, to read as follows:

(C) Maintain and operate a nonmunicipal domestic sewage treatment works; or

SECTION \_\_. Arkansas Code § 19-6-487 is repealed because the entity that the fund was created to support has itself been repealed.

~~19-6-487. Health Adequacy Committee Fund.~~

~~(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Health Adequacy Committee Fund”.~~

~~(b)(1) All moneys collected under § 20-36-104 shall be deposited into the State Treasury to the credit of the fund as special revenues.~~

~~(2) The fund shall also consist of any other revenues as may be authorized by law.~~

~~(c) The fund shall be used by the Legislative Health Adequacy Committee for the purposes set out in § 20-36-104.~~

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 20

SECTION \_\_. Arkansas Code § 20-13-503(9) and (10), concerning the definitions relating to the statewide emergency poison control-drug information-toxicological laboratory services program, is amended to read as follows:

(9) “PC-DI-TL services system” means the Poison Control-Drug Information-Toxicological Laboratory Services Unitary System with three (3) definite and permanent components: UAMS-Pharmacy, UAMS-Library, and the Chemistry Branch of the Public Health Laboratory of the ~~Division of Health of the Department of Health and Human Services~~ Department of Health;

(10) “Toxicology laboratory services” means those services provided the system by the Chemistry Branch of the Public Health Laboratory of the ~~Division of Health of the Department of Health and Human Services~~ Department of Health, which is that permanent component within the unitary system charged with toxicology laboratory services responsibility;

SECTION \_\_. Arkansas Code § 20-13-1603(b), concerning rules for the community paramedic licensure program, is amended to read as follows:

(b) The rules shall consider quality assurance and adequate data collection to evaluate the utilization and effectiveness of the community paramedic licensure and training program.

SECTION \_\_. Arkansas Code § 20-14-209(a), concerning administrative support for the Governor's Commission on People with Disabilities, is amended to read as follows:

(a) The appropriate division as determined by the Director of the ~~Department of Health and Human Services~~ Department of Human Services or any other agency or division as the Governor shall designate shall provide administrative support to the Governor's Commission on People with Disabilities.

SECTION \_\_. Arkansas Code § 20-78-106(c )(2), concerning availability of children’s advocacy records during an investigation, is amended to read as follows:



(2)(A)(i) The circuit court shall issue protective orders under the Arkansas Rules of Criminal Procedure or the Arkansas Rules of Civil Procedure, as applicable, to ensure that those items of evidence for which there is a reasonable expectation of privacy are not distributed to persons or institutions ~~without a~~ that have no legitimate interest in the evidence and that otherwise should be sealed.

(ii) There is a reasonable expectation of privacy in the following items:

- (a) Audio or videotapes of a child witness;
- (b) Photographs of a child witness;
- (c) Name of a child victim; and
- (d) Medical records of a child victim.

(B)(i) The administrative hearing officer or administrative law judge shall issue protective orders to ensure that those items of evidence for which there is a reasonable expectation of privacy are not distributed to persons or institutions ~~without a~~ that have no legitimate interest in the evidence and that otherwise should be sealed.

(ii) There is a reasonable expectation of privacy in the following items:

- (a) Audio or videotapes of a child witness;
- (b) Photographs of a child witness;
- (c) Name of a child victim; and
- (d) Medical records of a child victim.

(C)(i) The circuit court may enforce the orders with criminal or civil contempt or sanctions, as appropriate.

(ii) The circuit court may modify or vacate a protective order for good cause.

(iii) If a protective order was entered and has not been vacated, the remedy for a violation of the protective order is limited to criminal or civil contempt or sanctions by the circuit court in which the protective order was entered.

SECTION \_\_. Arkansas Code § 20-82-201(b), concerning membership to the Arkansas Child Abuse/Rape/Domestic Violence Commission, is amended to remove an obsolete term and read as follows:

(b) The membership of the commission shall consist of the following:

- (1) A representative of domestic violence programs or domestic violence service providers in Arkansas;
- (2) A representative of the Department of Arkansas State Police;
- (3) A physician specializing in the treatment of child abuse;
- (4) A prosecuting attorney who is a member of the Arkansas Prosecuting Attorneys Association;
- (5) A defense attorney;
- (6) A representative of a victim-witness program;
- (7) A representative of the Arkansas Law Enforcement Training Academy;
- (8) A representative of education;
- (9) A representative of the Division of Children and Family Services of the Department of Human Services;
- (10) A representative of a parents' group;
- (11) A mental health professional specializing in the treatment of child abuse or domestic violence or rape;
- (12) A representative of the Department of Correction Reduction of Sexual Victimization Program;
- (13) A representative of city or county law enforcement;
- (14) A representative of children with disabilities;
- (15) A district judge or circuit judge;
- (16) ~~A chancery judge;~~
- (17) A representative of the State Crime Laboratory;
- (18) ~~(17)~~ A representative of the Department of Health;
- (19) ~~(18)~~ A representative of rape crisis centers;
- (20) ~~(19)~~ A representative of the Arkansas Hospital Association;
- (21) ~~(20)~~ A representative of the Office of the Attorney General;
- (22) ~~(21)~~ Three (3) members at large;
- (23) ~~(22)~~ A court-appointed special advocate representative;
- (24) ~~(23)~~ A guardian ad litem;
- (25) ~~(24)~~ A representative of area health education center programs;

~~(26)~~ (25) A faculty member from a four-year college or university with experience in the study of human trafficking or a closely related area of study;

~~(27)~~ (26) A representative from the Department of Labor; and

~~(28)~~ (27) A healthcare provider experienced in the treatment of human trafficking victims.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 21

SECTION \_\_. Arkansas Code § 21-4-203 is amended to alphabetize the defined terms in the section to read as follows:

21-4-203. Definitions.

As used in this subchapter:

(1) “Agency head” or “agency director” means the executive head of all agencies, departments, boards, commissions, bureaus, councils, or other agencies of the state;

(2) “Annual leave” means vacation time with pay but shall not include compensatory time;

(3) “Catastrophic illness” means a medical condition, as certified by a physician, of an employee or of the spouse or parent of the employee or of a child of the employee ~~that~~ who may be claimed as a dependent under the Income Tax Act of 1929, § 26-51-101 et seq., which requires an employee's absence from duty for a prolonged period of time and which, except for the catastrophic leave program, would result in a substantial loss of income to the employee because of the exhaustion of all earned sick and annual leave;

(4) “Catastrophic leave” means leave granted to an employee as a result of a catastrophic illness, upon the employee's exhausting all sick and annual leave;

(5) “Catastrophic leave bank” means a pool of accrued annual leave donated by employees;

(6) “Compensatory time” means time off in lieu of payment for overtime hours;

(7) “Educational leave” means any period of out-service training during which time the employee pursues a regular full-time course of instruction to acquire a specific skill or skills needed;

(8) “Employee” means a person regularly appointed or employed in a position of state service by a state agency, as defined in subdivision ~~(11)~~ (14) of this section, for which he or she is compensated on a full-time basis;

(9) “Immediate family member” means:

(A) An employee's father, mother, sister, brother, husband, wife, child, grandmother, grandfather, grandchild, or in-law; and

(B) An individual acting as parent or guardian of an employee;

~~(9)~~(10) “Probationary employee” means a person certified from a list of eligibles or employed through a work test appointment and serving a probationary period;

~~(10)~~(11) “Provisional employee” means a person who has been appointed to fill a position pending the establishment of a register for such a position;

(12) “Severe illness” means a medical condition of an employee or an employee's immediate family member that:

(A) Is catastrophic in nature;

(B) Could not be anticipated;

(C) Requires continuous in-patient or out-patient medical treatment; and

(D) Causes an employee or the employee's immediate family member to be absent from duty for a prolonged period of time;

(13) “Shared leave” means the donation of an employee's earned sick leave or earned annual leave to another employee who:

(A) Is suffering from a severe illness;

(B) Has an immediate family member suffering from a severe illness; or

(C) Has approved paternity leave or approved maternity leave after:

(i) The birth of a biological child;

(ii) The placement of an adoptive child in the adoptive home of the employee; or

(iii) The placement of a foster child in the foster home of the employee for an appropriate transition period that is in the best interest of the foster child as determined by the Division of Children and Family Services of the Department of Human Services;

~~(11)~~(14) “State agencies” means all agencies, departments, boards, commissions, bureaus, councils, state-supported institutions of higher learning, or other agencies except the following excluded agencies or positions within agencies:

(A) The elected constitutional officers of this state and their employees;

(B) The General Assembly and its employees, including employees of the Bureau of Legislative Research and Arkansas Legislative Audit;

(C) Members of the Supreme Court, members of the Court of Appeals, the Administrative Office of the Courts, circuit courts, and prosecuting attorneys, but not including deputy prosecuting attorneys;

(D) The Arkansas State Highway and Transportation Department; and

(E) All administrative, academic, or other nonclassified employees of the state-supported institutions of higher learning;

~~(12)~~(15) “Temporary employee” means a person who has been appointed from a register for a period of time not to exceed six (6) months;

~~(13)~~(16)(A) “Working day” means all regularly prescribed days of employment in which the employee performs those duties for which he or she was hired.

(B) For the purposes of this subchapter, a working day shall consist of eight (8) hours; and

~~(14)~~(17) “Years of service” includes the total number of years of employment with all agencies of Arkansas state government whether such employment is continuous or not;

~~(15) “Immediate family member” means:~~

~~(A) An employee's father, mother, sister, brother, husband, wife, child, grandmother, grandfather, grandchild, in-laws; and~~

~~(B) An individual acting as parent or guardian of an employee;~~

~~(16) “Severe illness” means a medical condition of an employee or an employee's immediate family member:~~

~~(A) Which is catastrophic in nature;~~

~~(B) Which could not be anticipated;~~

~~(C) That requires continuous in-patient or out-patient medical treatment; and~~

~~(D) That causes an employee or the employee's immediate family member to be absent from duty for a prolonged period of time; and~~

~~(17) “Shared leave” means the donation of an employee's earned sick leave or earned annual leave to another employee who:~~

~~(A) Is suffering from a severe illness;~~

~~(B) Has an immediate family member suffering from a severe illness; or~~

~~(C) Has approved paternity leave or approved maternity leave after:~~

~~(i) The birth of a biological child;~~

~~(ii) The placement of an adoptive child in the adoptive home of the employee; or~~

~~(iii) The placement of a foster child in the foster home of the employee for an appropriate transition period that is in the best interest of the foster child as determined by the Division of Children and Family Services of the Department of Human Services.~~

# **2017 PROPOSED TECHNICAL CORRECTIONS**

## **Title 22**

SECTION \_\_. Because Acts 1997, No. 208, § 1, applies to numerous titles of the Arkansas Code and because the language of the section has been noted at multiple locations in the Arkansas Code and also codified as § 22-4-408, thus achieving the undesirable result of having identical statutory language both codified and noted in the Arkansas Code, Arkansas Code § 22-4-408 is removed from the Arkansas Code. This removal does not constitute the repeal of the underlying original act, and the Arkansas Code Revision Commission may note the following language at Title 22, Chapter 4, Subchapter 4:

~~22-4-408.~~ Legislative intent and purpose.

The General Assembly hereby acknowledges that many of the laws relating to individuals with disabilities are antiquated, functionally outmoded, derogatory, and ambiguous or are inconsistent with more recently enacted provisions of the law. Consequently, it is the intent of the General Assembly and the purpose of this act to clarify the relevant chapters of Titles 1, 6, 9, 13, 14, 16, 17, 20, 22, 23, and 27 of the Arkansas Code Annotated of 1987.



# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 23

SECTION \_\_. Arkansas Code § 23-2-103(a), concerning the office of the Arkansas Public Service Commission, is amended to clarify that the physical location of the office is in the state capital rather than the State Capitol Building, to read as follows:

(a) The office of the Arkansas Public Service Commission shall be in the ~~State Capitol~~ state capital, but the commission may conduct hearings and make investigations anywhere in the different parts of the state when, in the opinion of the commission, the hearings will best serve the interest and convenience of the public.

SECTION \_\_. Arkansas Code § 23-3-201(d), concerning exemptions claimed by a public utility under the Utility Facility Environmental and Economic Protection Act, is amended to subdivide the subsection for clarity and eliminate unnecessarily duplicative language, to read as follows:

(d) An exemption claimed by a public utility under § 23-18-504(a)(5) does not bar the:

- (1) ~~public~~ Public utility from seeking the issuance of a certificate of public convenience and necessity under this section; or
- (2) ~~nor shall such exemption bar the commission~~ Commission from granting the public utility ~~such the~~ certificate of public convenience and necessity sought under subdivision (d)(1) of this section and thereby allow the public utility to seek recovery of the reasonable cost of the equipment or facilities through rates.

SECTION \_\_. Arkansas Code § 23-4-422(b)(2), concerning the Arkansas Public Service Commission's authority to determine rates and charges for utility services for retail jurisdiction rate classes, is amended to clarify the subdividing to read as follows:

(2)(A) For the retail jurisdiction rate classes, ensure that:

- (A) ~~all~~ All electric utility production plant, production-related costs, all nonfuel production-related costs, purchased capacity costs, and any energy costs incurred

resulting from the electric utility's environmental compliance are classified as production demand costs; and

(B)(i) ~~Ensure that production~~ Production demand costs are allocated to each customer class pursuant to the average and excess method shown in Table 4-10B on page 51 of the 1992 National Association of Regulatory Utility Commissioners Manual, as it existed on January 1, 2015, using the average of the four (4) monthly coincident peaks for the months of June, July, August, and September for each class for the coincident peak referenced in Table 4-10B of the manual, as it existed on January 1, 2015, or any subsequent version of the manual to the extent it produces an equivalent result.

~~(C)(ii)~~ Subdivision ~~(b)(2)(B)~~ (b)(2)(B)(i) of this section does not prescribe an allocation for a wind production plant; and

SECTION \_\_. Arkansas Code § 23-4-1003(b)(3), concerning the requirement for the adoption of rules by the Arkansas Public Service Commission, is repealed because the subdivision is obsolete.

~~(3) The commission shall adopt the initial rules under this subsection within one (1) year of July 31, 2007.~~

SECTION \_\_. Arkansas Code § 23-63-517(c)(4)(B)(iii), concerning notice of possible disclosure of information an insurer has shared with the National Association of Insurance Commissioners, is amended to clarify the wording to read as follows:

(iii) Require prompt notice ~~to~~ be given to an insurer whose confidential information is shared with and in the possession of the National Association of Insurance Commissioners under this section that the confidential information is subject to a request or subpoena to the National Association of Insurance Commissioners to disclose or produce the confidential information; and

SECTION \_\_. Arkansas Code § 23-69-409(e)(4)(B)(v), concerning notice of possible disclosure of information an insurer has shared with the National Association of Insurance Commissioners, is amended to clarify the wording to read as follows:

(v) Require prompt notice to be given to an insurer whose confidential information is in the possession of the National Association of Insurance Commissioners or a third-party consultant under this subchapter that the confidential information is subject to a request or subpoena to the National Association of Insurance Commissioners or a third-party consultant for disclosure or production; and

SECTION \_\_. Arkansas Code § 23-92-201 is amended to alphabetize the defined terms and to reorganize the defined term "third-party administrator" within the section to read as follows:

23-92-201. Definitions.

(a) As used in this subchapter:

(1) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy benefits plan or program;

(2) "Pharmacy benefits plan or program" means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides pharmacist services to individuals who reside in or are employed in this state; and

~~(+)(3)(A)~~ "Third-party administrator" means a person, firm, or partnership that collects or charges premiums from or adjusts or settles claims on residents of this state in connection with life or accident and health coverage provided by a self-insured plan or a multiple employer trust or multiple employer welfare arrangement;

(B) "Third-party administrator" includes:

(i) An administrative-services-only contract offered by insurers and health maintenance organizations; and

(ii) A pharmacy benefits manager that administers or manages a pharmacy benefits plan or program that furnishes, covers the cost of, or otherwise provides for the practice of pharmacy as defined in § 17-92-101 under any life and accident and health coverage provided in this state by a self-insured plan, a multiple-employer trust, or a multiple-employer-welfare arrangement.

(C) "Third-party administrator" does not include:

(i) An employer, for its employees or for the employees of a subsidiary or affiliated corporation of the employer;

(ii) A union, for its members;  
(iii) An insurer or health maintenance organization licensed to do business in this state;  
(iv) A creditor, for its debtors, regarding insurance covering a debt between them;  
(v) A credit-card-issuing company that advances for or collects premiums or charges from its credit card holders as long as that company does not adjust or settle claims;  
(vi) An individual who adjusts or settles claims in the normal course of his or her practice or employment and who does not collect charges or premiums in connection with life or accident and health coverage; or  
(vii) An agency licensed by the Insurance Commissioner and performing duties pursuant to an agency contract with an insurer authorized to do business in this state.

~~(2) “Pharmacy benefits manager” means an entity that administers or manages a pharmacy benefits plan or program; and~~

~~(3) “Pharmacy benefits plan or program” means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides pharmacist services to individuals who reside in or are employed in this state.~~

~~(b) As used in this subchapter, “third party administrator” includes:~~

~~(1) An administrative services only contract offered by insurers and health maintenance organizations; and~~

~~(2) A pharmacy benefits manager that administers or manages a pharmacy benefits plan or program that furnishes, covers the cost of, or otherwise provides for the practice of pharmacy as defined in § 17-92-101 under any life and accident and health coverage provided in this state by a self-insured plan, a multiple-employer trust, or a multiple-employer-welfare arrangement.~~

~~(c) As used in this subchapter, “third party administrator” does not include the following persons:~~

~~(1) An employer, for its employees or for the employees of a subsidiary or affiliated corporation of the employer;~~

- ~~(2) A union, for its members;~~
- ~~(3) An insurer or health maintenance organization licensed to do business in this state;~~
- ~~(4) A creditor, for its debtors, regarding insurance covering a debt between them;~~
- ~~(5) A credit card issuing company that advances for or collects premiums or charges from its credit card holders as long as that company does not adjust or settle claims;~~
- ~~(6) An individual who adjusts or settles claims in the normal course of his or her practice or employment and who does not collect charges or premiums in connection with life or accident and health coverage; or~~
- ~~(7) An agency licensed by the Insurance Commissioner and performing duties pursuant to an agency contract with an insurer authorized to do business in this state.~~

SECTION \_\_. Arkansas Code § 23-115-503(b)(1), concerning the authority of the Director of the Office of the Arkansas Lottery to cancel, deny, revoke, suspend, or fail to renew a major procurement contract, is amended to further subdivide the subdivision for clarity to read as follows:

(b)(1) If the Director of the Office of the Arkansas Lottery or his or her designee determines that cancellation, denial, revocation, suspension, or the failure to renew a major procurement contract is in the best interest of the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may:

(A) Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate ~~subject to notice and a right to a hearing~~ a major procurement contract issued under this chapter; or

(B) fail ~~fail~~ Fail to renew a major procurement contract issued under this chapter.

SECTION \_\_. Arkansas Code § 23-115-601(d)(2)(A), concerning the posting requirements for a retailer's license, is amended to clarify the wording of the subdivision to read as follows:

(2)(A) A retailer shall post its license and keep the license conspicuously displayed in a location on the premises accessible to the public ~~its license~~.

SECTION \_\_. Arkansas Code § 23-115-604(b)(1), concerning the authority of the Director of the Office of the Arkansas Lottery to cancel, deny, revoke, suspend, or fail to renew a retailer license, is amended to further subdivide the subdivision for clarity to read as follows:

(b)(1) If the Director of the Office of the Arkansas Lottery or his or her designee determines that cancellation, denial, revocation, suspension, or the failure to renew a retailer license is in the best interest of the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may:

(A) Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate ~~subject to notice and a right to a hearing~~ a retailer license issued under this chapter; or

(B) ~~fail~~ Fail to renew a retailer license issued under this chapter.

SECTION \_\_. Arkansas Code § 23-115-901(a)(1), concerning the penalty for selling lottery tickets to individuals under eighteen years of age, is amended to remove an erroneous imposition of a time limit for a first offense to read as follows:

(1) A fine not to exceed two hundred fifty dollars (\$250) for a first violation ~~within a forty-eight month period~~;

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 24

SECTION \_\_. Arkansas Code § 24-1-202(9), concerning the definitions used in Subchapter 2, is amended to repeal an unused definition.

(9) ~~“State agency” means the Arkansas Public Employees' Retirement System;~~

SECTION \_\_. Arkansas Code § 24-7-401(e)(3), concerning appropriations, is amended to correct an obsolete reference to biennial appropriations:

(3) The Department of Education shall pay from the Public School Fund the teacher retirement employer contributions for eligible employees of participating employers as required by the department's ~~biennial~~ appropriations act and in accordance with rules established by the board.

SECTION \_\_. Arkansas Code § 24-7-601 is amended to make stylistic changes and to clarify references to the Arkansas Teacher Retirement System to read as follows :

24-7-601. Credited service generally.

(a) By rule, the Board of Trustees of the Arkansas Teacher Retirement System shall fix and determine the number of years, and fraction thereof, of service to be credited each member for his or her employment as an employee.

(b)(1) A member shall be employed by an employer covered by the Arkansas Teacher Retirement System for a minimum of one hundred sixty (160) days per fiscal year to earn one (1) year of credited service.

(2) Fractional years of service may be granted beginning July 1, 1971, as prescribed by the board.

(3) A member shall not receive more than one (1) year of service in any one (1) fiscal year.

(4)(A) Beginning July 1, 2011, a contributory member who accrues less than one-fourth ( $\frac{1}{4}$ ) year of service credit in a fiscal year may accumulate and carry forward days of

service until the first fiscal year in which the contributory member accrues the minimum days of service required to credit one-fourth ( $\frac{1}{4}$ ) year of service credit.

(B) Upon the contributing member's accruing of a minimum of one-fourth ( $\frac{1}{4}$ ) year of service credit, the:

- (i) Service credit shall be applied to the latest fiscal year; and
- (ii) Carry-forward days shall be reset to zero (0).

(c)(1) Days of absence from service because of sickness shall be considered as service if the days are paid sick leave.

(2) Days of paid sick leave shall not be considered service if the payment is for unused sick leave.

(d) No credited service may be granted by the board for service rendered before July 1, 1937.

(e)(1) The ~~system~~ Arkansas Teacher Retirement System is a reciprocal system under the provisions of §§ 24-2-401 — 24-2-405.

(2) In establishing eligibility for a benefit from the Arkansas Teacher Retirement System, the credited service under all reciprocal systems shall be totaled and the total credited service shall be used in determining eligibility for ~~a system~~ an Arkansas Teacher Retirement System benefit.

(3) In determining the amount of a benefit from ~~this system~~ the Arkansas Teacher Retirement System, there shall be used only the actual service under ~~this system~~ the Arkansas Teacher Retirement System and the benefit formula of ~~this system~~ the Arkansas Teacher Retirement System.

(4) The final average compensation used shall be that of the reciprocal system that furnishes the highest final salary at the time of retirement.

(5) Beginning July 1, 2014, if the reciprocal system in which a member has service credit has less than the number of years of service credit required in the ~~system's~~ the Arkansas Teacher Retirement System's formula for the calculation of final average salary for a member, then ~~this system~~ the Arkansas Teacher Retirement System shall obtain the salary and service credit information from the reciprocal system and use the combined salary and service credit information to calculate the member's final average salary as if the salary and service credit ~~has~~ have all been earned in ~~this system~~ the Arkansas Teacher Retirement System.



(6) Wherever ~~this system~~ the Arkansas Teacher Retirement System provides a benefit amount that is not dependent on length of credited service, the benefit amount shall be reduced to the proportion that actual system service bears to total reciprocal system-credited service.

(f) In any case of question as to the service credit of any person, the board shall have the final power to decide the question.

(g)(1)(A) Beginning July 1, 2013, ~~the system~~ the Arkansas Teacher Retirement System shall allow a member who earns concurrent service in both ~~this system~~ the Arkansas Teacher Retirement System and a reciprocal system to receive full service credit in ~~this system~~ the Arkansas Teacher Retirement System without reduction of service credit due to the concurrent service.

(B) Credited service in an alternate retirement plan or the Arkansas Public Employees' Retirement System is not allowed under subdivision (g)(1)(A) of this section.

(2) The ~~system~~ Arkansas Teacher Retirement System shall not recognize any concurrent service added to the member's credited service in the ~~system~~ Arkansas Teacher Retirement System that credits a member with more than one (1) year of credited service for a fiscal year or combines salary earned in both systems in a fiscal year for the purpose of:

- (A) Vesting;
- (B) Retirement eligibility; and
- (C) Calculating final average salary.

SECTION \_\_. Arkansas Code § 24-8-219(a) and (b), concerning the rights of surviving unremarried spouses of judges, are amended to clarify references related to the Arkansas Judicial Retirement System and to comport with the membership generally as set forth in § 24-8-207, to read as follows :

(a) The surviving unremarried spouse, sixty-five (65) years of age or older, of any person who served as a justice of the Supreme Court ,as a judge of the Court of Appeals, or as a judge of any circuit or chancery court of the State of Arkansas for a period of eight (8) years or longer, who is not now receiving, or entitled to receive, survivors' benefits under the Arkansas Judicial Retirement System shall be entitled to receive survivors' benefits under the system upon meeting the qualifications therefor and otherwise complying with the provisions of this section.

(b)(1) Any person desiring to apply for and draw benefits provided for in this section shall make application to the Auditor of State.

(2) The application shall be supported and accompanied by proof satisfactory to the Auditor of State that the applicant is an unmarried spouse, sixty-five (65) years of age or older, of a person who served either on the Supreme Court, as a judge of the Court of Appeals, or as a circuit or chancery judge for a period of eight (8) years or longer, and that the applicant was married to the deceased justice or judge for at least five (5) years, was married to him or her at the time of his or her death, and was living with him or her in marriage at the time of his or her death.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 26

SECTION \_\_. Arkansas Code § 26-52-110 is amended to correct a reference and remove a defined term that is no longer used in the section, to read as follows:

26-52-110. Sellers and affiliated persons — Referral agreements — Notice required.

(a) As used in this section:

(1) “Affiliated person” means:

(A) A person that is a member of the same controlled group of corporations as the seller; or

(B) Another entity that, notwithstanding its form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations; and

(2) “Controlled group of corporations” means the same as in 26 U.S.C. § 1563(a), as it existed on January 1, 2011; ~~and~~

~~(3) “Facilitator” means a person that directly aids or assists sellers in making remote sales, including without limitation a person that operates a website marketplace through which the seller makes sales.~~

(b) A seller is presumed to be engaged in the business of selling tangible personal property or taxable services for use in the state if an affiliated person is subject to the sales and use tax jurisdiction of the state and the:

(1) Seller sells a similar line of products as the affiliated person and sells the products under the same business name or a similar business name;

(2) Affiliated person uses his, hers, or its in-state employees or in-state facilities to advertise, promote, or facilitate sales by the seller to consumers;

(3) Affiliated person maintains an office, distribution facility, warehouse or storage place, or similar place of business to facilitate the delivery of property or services sold by the seller to the seller's business;

(4) Affiliated person uses trademarks, service marks, or trade names in the state that are the same or substantially similar to those used by the seller; or

(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state.

(c) The presumption in subsection (b) of this section may be rebutted by demonstrating that the affiliated person's activities in the state are not significantly associated with the seller's ability to establish or maintain a market in the state for the seller's sales.

(d)(1) If there is not an affiliated person with respect to a seller in the state, the seller is presumed to be engaged in the business of selling tangible personal property or taxable services for use in the state if the seller enters into an agreement with one (1) or more residents of the state under which the residents, for a commission or other consideration, directly or indirectly refer potential purchasers, whether by a link on an Internet website or otherwise, to the seller.

(2) However, subdivision (d)(1) of this section applies only if the cumulative gross receipts from sales by the seller to purchasers in the state who are referred to the seller by all residents according to the type of agreement described in subdivision (d)(1) of this section exceed ten thousand dollars (\$10,000) during the preceding twelve (12) months.

(e)(1) The presumption in subsection (d) of this section may be rebutted by submitting proof that the residents with whom the seller has an agreement did not engage in any activity within the state that was significantly associated with the seller's ability to establish or maintain the seller's market in the state during the preceding twelve (12) months.

(2) Proof provided under subdivision (e)(1) of this section may consist of written statements from all of the residents with whom the seller has an agreement stating that they did not engage in any solicitation in the state on behalf of the seller during the preceding twelve (12) months if the statements were provided and obtained in good faith.

(f) The Director of the Department of Finance and Administration shall promulgate rules to implement this section.

# 2017 PROPOSED TECHNICAL CORRECTIONS

## Title 27

SECTION \_\_. Arkansas Code § 27-14-101, is amended to remove an obsolete reference, to read as follows:

27-14-101. Title.

This chapter may be cited as the “~~Uniform~~ Motor Vehicle Administration, Certificate of Title, and Antitheft Act”.

SECTION \_\_. Arkansas Code Title 27, Chapter 14, Subchapter 1, is amended to add an additional section to contain definitions that are being transferred from Subchapter 2, to read as follows:

27-14-104. Definitions.

As used in this chapter:

(1) “Bus” means a motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons or a motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;

(2) “Dealer” means a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered under this chapter and who has an established place of business for that purpose in this state;

(3) “Essential parts” means all integral and body parts of a vehicle of a type required to be registered under this chapter, that if removed, altered, or substituted would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation;

(4) “Established place of business” means the place actually occupied, either continuously or at regular periods, by a dealer or manufacturer, where the books and records of the business are kept and a large share of the business is transacted;

(5) “Foreign vehicle” means a vehicle not registered in this state but of a type required to be registered under this chapter and brought into this state from another state,

territory, or country other than in the ordinary course of business by or through a manufacturer or dealer;

(6) “Implement of husbandry” means a vehicle not subject to registration if used on the highways and designed or adapted exclusively for timber harvesting or hauling, agricultural, horticultural, or livestock raising operations, or for lifting or carrying another implement of husbandry;

(7) “Manufactured home” means a factory-built structure:

(A) Produced in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and

(B) Designed to be used as a dwelling unit;

(8) “Manufacturer” means a person engaged in the business of constructing or assembling vehicles of a type required to be registered under this chapter at an established place of business in this state;

(9) “Mobile home” means a structure:

(A) Built in a factory before the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and

(B) Designed to be used as a dwelling unit;

(10)(A) “Motor home” means a motor vehicle designed to provide temporary living quarters, built onto, or permanently attached to, an integral part of a self-propelled motor vehicle chassis.

(B) The vehicle must contain permanently installed independent life-enhancement systems;

(11) “Motor vehicle” means a vehicle that is self-propelled or that is propelled by electric power obtained from overhead trolley wires but not operated upon stationary rails or tracks;

(12) “Motorcycle” means a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, excluding a tractor;

(13) “Nonresident” means a person who is not a resident of this state;

(14)(A) “Owner” means a person who holds the legal title of a vehicle.

(B) In the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter;

(15) "Person" means a natural person, firm, copartnership, association, or corporation;

(16) "Pneumatic tire" means a tire in which compressed air is designed to support the load;

(17) "Pole trailer" means a vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections;

(18) "Reconstructed vehicle" means a vehicle of a type required to be registered under this chapter materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used;

(19)(A) "Resident" means any person who:

(i) Remains in this state for a period of more than six (6) months;

(ii) Resides in this state due to a change of abode; or

(iii) Is domiciled in this state on a temporary or permanent basis.

(B) "Resident" does not include a person who is in this state as a student;

(20) "School bus" means a motor vehicle that is owned by a public or governmental agency and operated for the transportation of children to or from school or that is privately owned and operated for compensation for the transportation of children to or from school;

(21) "Semitrailer" means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle;

(22) “Special mobile equipment” means a vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including without limitation:

(A) A farm tractor;

(B) Road construction or maintenance machinery;

(C) Ditch-digging apparatus;

(D) Well-boring apparatus; and

(E) Concrete mixers;

(23) “Specially constructed vehicle” means a vehicle of a type required to be registered under this chapter not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;

(24) “Street” or “highway” means the entire width between boundary lines of a roadway publicly maintained when any part of the roadway is open to the use of the public for purposes of vehicular travel;

(25) “Trailer” means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(26) “Transporter” means a person engaged in the business of delivering vehicles of a type required to be registered under this chapter from a manufacturing, assembly, or distributing plant to dealers or sales agents of a manufacturer;

(27) “Truck” means a motor vehicle designed, used, or maintained primarily for the transportation of property;

(28) “Truck tractor” means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn; and

(29) “Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.



SECTION \_\_. Arkansas Code §§ 27-14-201 – 27-14-216, which include some outdated statutes and others which will be transferred to a new section in Chapter 14, Subchapter 1, are repealed.

~~27-14-201. Applicability.~~

~~As used in this chapter, words and phrases shall have the meanings defined in this subchapter, unless the context otherwise requires.~~

~~27-14-202. Commissioner and office.~~

~~(a) “Commissioner” means the Director of the Department of Finance and Administration acting in his or her capacity as Commissioner of Motor Vehicles in this state.~~

~~(b) “Office” means the Office of Motor Vehicle of this state acting directly or through its duly authorized officers and agents.~~

~~27-14-203. Person and owner.~~

~~(a) “Person” means every natural person, firm, copartnership, association, or corporation.~~

~~(b) “Owner” means a person who holds the legal title of a vehicle. In the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.~~

~~27-14-204. Nonresident and resident.~~

~~(a) “Nonresident” means every person who is not a resident of this state.~~

~~(b)(1) “Resident” shall mean any person who:~~

~~(A) Remains in this state for a period of more than six (6) months;~~

~~(B) Resides in this state due to a change of abode; or~~

~~(C) Is domiciled in this state on a temporary or permanent basis.~~

~~(2) The term “resident” shall not include any person who is in this state as a student.~~

~~27-14-205. Dealer, transporter, and manufacturer.~~

~~(a) "Dealer" means every person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered under this chapter and who has an established place of business for that purpose in this state.~~

~~(b) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered under this chapter from a manufacturing, assembly, or distributing plant to dealers or sales agents of a manufacturer.~~

~~(c) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered under this chapter at an established place of business in this state.~~

~~27-14-206. Established place of business.~~

~~"Established place of business" means the place actually occupied, either continuously or at regular periods, by a dealer or manufacturer, where his or her books and records are kept and a large share of his or her business is transacted.~~

~~27-14-207. Definitions.~~

~~As used in this chapter:~~

~~(1) "Bus" means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;~~

~~(2) "Manufactured home" means a factory-built structure:~~

~~(A) Produced in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and~~

~~(B) Designed to be used as a dwelling unit;~~

~~(3) "Mobile home" means a structure:~~

~~(A) Built in a factory before the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and~~

~~(B) Designed to be used as a dwelling unit;~~

(4) “~~Motorcycle~~” means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, excluding a tractor;

(5) “~~Motor home~~” means a motor vehicle designed to provide temporary living quarters, built onto an integral part of, or permanently attached to, a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life-support systems;

(6) “~~Motor vehicle~~” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

(7) “~~School bus~~” means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school; and

(8) “~~Vehicle~~” means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

#### ~~27-14-208. Foreign vehicle.~~

“~~Foreign vehicle~~” means every vehicle of a type required to be registered under this chapter brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

#### ~~27-14-209. Truck tractor and truck.~~

(a) “~~Truck tractor~~” means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(b) “~~Truck~~” means every motor vehicle designed, used, or maintained primarily for the transportation of property.

#### ~~27-14-210. Trailer, semitrailer, and pole trailer.~~

(a) “~~Trailer~~” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

~~(b) “Semitrailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.~~

~~(c) “Pole trailer” means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.~~

#### ~~27-14-211. Special mobile equipment.~~

~~“Special mobile equipment” means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm tractors, road construction or maintenance machinery, ditch digging apparatus, well boring apparatus, and concrete mixers. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section.~~

#### ~~27-14-212. Implements of husbandry.~~

~~“Implements of husbandry” means every vehicle designed or adapted exclusively for timber harvesting or hauling, agricultural, horticultural, or livestock raising operations, or for lifting or carrying an implement of husbandry, and, in either case, not subject to registration if used upon the highways.~~

#### ~~27-14-213. Specially constructed and reconstructed vehicles.~~

~~(a) “Specially constructed vehicle” means every vehicle of a type required to be registered under this chapter not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.~~

~~(b) “Reconstructed vehicle” means every vehicle of a type required to be registered under this chapter materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.~~

~~27-14-214. Essential parts.~~

~~“Essential parts” means all integral and body parts of a vehicle of a type required to be registered under this chapter, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.~~

~~27-14-215. Pneumatic, solid and metal tires.~~

~~(a) “Pneumatic tire” means every tire in which compressed air is designed to support the load.~~

~~(b) “Solid tire” means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.~~

~~(c) “Metal tire” means every tire the surface of which in contact with the highway is, wholly or partly, of metal or other hard, nonresilient material.~~

~~27-14-216. Street or highway.~~

~~“Street or highway” means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.~~

SECTION \_\_. Arkansas Code §§ 27-14-402 – 27-14-407 are amended to correct obsolete references to read as follows :

27-14-402. ~~Commissioner to head~~ Head of Office of Motor Vehicle

The Office of Motor Vehicle shall be under the control of ~~a civil executive officer to be known as the “Commissioner of Motor Vehicles” who shall be the Director of the Department of Finance and Administration.~~

27-14-403. Powers and duties ~~of commissioner.~~

(a) The ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration is vested with the power and is charged with the duty of observing, administering, and enforcing the provisions of this chapter and of all laws regulating the

operation of vehicles or the use of the highways, the enforcement or administration of which is vested in the Office of Motor Vehicle.

(b) The ~~commissioner~~ director ~~is authorized to~~ shall adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this chapter and any other laws, the enforcement and administration of which are vested in the office.

(c) The ~~commissioner~~ director may adopt an official seal for the use of the office.

#### 27-14-404. Organization.

(a) The ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration shall organize the Office of Motor Vehicle in the manner as he or she may deem necessary and proper to segregate and conduct the work of the office.

(b) The ~~commissioner~~ director shall appoint such deputies, subordinate officers, clerks, investigators, and other employees as may be necessary to carry out the provisions of this chapter.

(c) The ~~commissioner~~ director shall maintain an office in the State Capitol and in such other places in the state as he or she may deem necessary and proper to carry out the powers and duties vested in the office.

#### 27-14-405. Police authority generally.

The ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration and ~~such the~~ officers and inspectors of the Office of Motor Vehicle ~~as he or she shall designate~~ designated by the director shall have the power:

(1) ~~Of peace officers for the purpose of enforcing the provisions of this chapter and of any other law regulating the operation of vehicles or the use of the highways;~~

(2) ~~To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter or other law regulating the operation of vehicles or the use of the highways;~~

(3) ~~When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this chapter or of any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver's or chauffeur's license and the registration certificate issued for the vehicle and submit to an inspection of the vehicle, the~~

~~registration plates, and registration certificate thereon or to an inspection and test of the equipment of the vehicle;~~

(4) To inspect any vehicle of a type required to be registered under this chapter in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration ~~thereof~~ of those stolen vehicles;

(5) (2) To serve warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways; and

(6) (3) To investigate reported thefts of motor vehicles, trailers, and semitrailers.

27-14-406. Authority to take possession.

~~(a)~~ The Office of Motor Vehicle is authorized to take possession of any certificate of title, registration certificate, permit, license, or registration plate issued by ~~it~~ the office upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious or ~~which~~ has been unlawfully or erroneously issued.

~~(b) The office is authorized to take possession of any vehicle which is being operated unlawfully.~~

27-14-407. Summons of witnesses.

(a)(1) ~~The Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration and officers of the Office of Motor Vehicle designated by ~~him or her~~ the director shall have authority to summon witnesses to give testimony under oath or to give written deposition upon any matter under the jurisdiction of the office.

(2) The summons may require the production of relevant books, papers, or records.

(b)(1) Every summons shall be served at least five (5) days before the return date, either by personal service made by any person over eighteen (18) years of age or by registered mail, but return acknowledgment is required to prove the latter service.

(2) Failure to obey a summons ~~so served~~ shall constitute a misdemeanor.

(c) Any court of competent jurisdiction shall have jurisdiction, upon application by the ~~commissioner~~ director, to enforce all lawful orders of the ~~commissioner~~ director under this section.

SECTION \_\_. Arkansas Code §§ 27-14-410 – 27-14-412 are amended to correct obsolete references, to read as follows :

27-14-410. Forms.

The ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration shall prescribe and provide suitable forms of applications, certificates of title, registration certificates, and all other forms requisite or deemed necessary to carry out the provisions of this chapter and any other laws, the enforcement and administration of which are vested in the Office of Motor Vehicle.

27-14-411. Oaths and signatures.

(a) Officers and employees of the Office of Motor Vehicle designated by the ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration are, for the purpose of administering the motor vehicle laws, authorized to administer oaths and acknowledge signatures.

(b) ~~They shall do so without fee~~ Administration of oaths and acknowledgement of signatures under subsection (a) of this section shall be performed without fee.

27-14-412. Records.

(a)(1) All records of the Office of Motor Vehicle, other than those declared by law to be confidential for the use of the office, shall be open to public inspection during office hours.

(2) The use of lists or other aggregations of compilations of motor vehicle registration information is restricted to safety recall notification programs involving motor vehicles and motor vehicle equipment, other federal and state agency programs, research and statistics involving motor vehicles in which individual identities are not published, disclosed, or for any other purpose authorized by the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721 et seq., as it existed on January 1, 2015.



(3) Motor vehicle registration information shall not be sold, furnished, or used for solicitation purposes.

(b)(1) The ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration and such officers of the office as the ~~commissioner~~ director may designate are authorized to prepare under the seal of the office and deliver upon request a certified copy of any record of the office or a noncertified electronic copy of the any record of the office.

(2) A fee of one dollar (\$1.00) shall be charged for each document so authenticated.

(3) Every certified copy shall be admissible in any proceeding in any court in like manner as the original.

(4)(A) A party requesting a noncertified electronic record shall execute a written agreement with the Department of Finance and Administration that includes the following provisions:

(i) An acknowledgment that the party requesting a record shall comply with all state and federal limits on the use of those records; and

(ii) An agreement that the party seeking to obtain records shall hold harmless and indemnify the department for any money damages, punitive damages, criminal fines, civil penalties, court costs, and attorney's fees awarded to any person or entity by any state or federal court or by the Arkansas State Claims Commission resulting from any disclosure by the party of motor vehicle information that is contrary to state or federal law.

(B) A fee of not less than twenty dollars and fifty cents (\$20.50) nor more than thirty dollars (\$30.00) per one thousand (1,000) records shall be charged for electronic records.

(c) The ~~commissioner~~ director may destroy any records of the office that have been maintained on file for five (5) years that ~~he or she may deem~~ the director deems obsolete and of no further service in carrying out the powers and duties of the office.

(d) All fees collected under this section shall be deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration.

SECTION \_\_. Arkansas Code §§ 27-14-602 and 27-14-603 are amended to correct obsolete references, to read as follows :

27-14-602. Registration fees.

(a) Except as otherwise provided, all fees shall be paid to the Office of Motor Vehicle for the registration of motor vehicles, trailers, and semitrailers under this chapter.

(b) The following fees shall be charged under this chapter by the ~~Commissioner~~ Office of Motor ~~Vehicles~~ Vehicle:

(1) For each certificate of title . . . . .	\$2.00
(2) For each duplicate certificate of title . . . . .	2.00
(3) For noting each lien . . . . .	.50
(4) For transfer of registration . . . . .	1.00
(5) For duplicate or substitute registration certificate . . . . .	1.00; <u>and</u>
(6) For duplicate or substitute license plate . . . . .	1.00.

27-14-603. Fee for special numbered license plates.

(a) There is levied a service fee of five dollars (\$5.00) to be added to the regular fee imposed for motor vehicle license plates collected by the ~~Commissioner~~ Office of Motor ~~Vehicles~~ Vehicle in all instances where a special number is reserved for any motor vehicle license plate applicant.

(b) These fees shall be treated as regular license fees and deposited accordingly as provided by law.

SECTION \_\_. Arkansas Code § 27-14-701(b), concerning exceptions to the requirements of title, is amended to correct an obsolete reference, to read as follows :

(b) When an application accompanied by the proper fee has been made for registration and certificate of title for a vehicle, ~~it~~ the vehicle may be operated temporarily pending complete registration upon displaying a duplicate application, duly verified, or other evidence of the application or otherwise under rules and regulations promulgated by the ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration.

SECTION \_\_. Arkansas Code § 27-14-705(b)(2)(C), concerning the contents of an application for registration and title, is amended to correct an obsolete reference, to read as follows :

(C) The certificate of origin shall be on a form to be prescribed by the ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration.

SECTION \_\_. Arkansas Code § 27-14-713(b)(1), concerning delivery of registration and title certificates, is amended to correct an obsolete reference, to read as follows :

(b)(1) The registration certificate shall be delivered to the owner and shall ~~contain, upon the face thereof,~~ display the date issued, the name and address of the owner, the registration number assigned to the vehicle, and the description of the vehicle as determined by the ~~Commissioner~~ Office of Motor ~~Vehicles~~ Vehicle .

SECTION \_\_. Arkansas Code § 27-14-721(a), concerning the assignment of new identifying numbers, is amended to correct an obsolete reference, to read as follows:

(a) The Office of Motor Vehicle is authorized to assign a distinguishing number to a motor vehicle whenever the serial number ~~thereon~~ on the motor vehicle is destroyed or obliterated and to issue to the owner a special plate bearing the distinguishing number, which shall be affixed to the motor vehicle in a position to be determined by the ~~Commissioner~~ Office of Motor ~~Vehicles~~ Vehicle .

SECTION \_\_. Arkansas Code § 27-14-722 is amended to correct an obsolete reference, to read as follows:

27-14-722. Change of engines

The ~~Commissioner~~ Office of Motor ~~Vehicles~~ Vehicle ~~is authorized to~~ may adopt and enforce such registration rules and regulations as ~~may be deemed~~ are necessary and compatible with the public interest, with respect to the change or substitution of one engine in place of another in any motor vehicle.

SECTION \_\_. Arkansas Code § 27-14-806(a)(2), concerning optional means of recording, is amended to correct an obsolete reference, to read as follows:

(2) In the case of implements of husbandry, ~~as defined in § 27-14-212,~~ all-terrain vehicles ~~as defined in § 27-21-102,~~ mobile homes ~~as defined in § 27-14-207,~~ or manufactured

homes, ~~as defined in § 27-14-207,~~ as defined in § 27-14-104, and all-terrain vehicles as defined in § 27-21-102, at his or her option, a lienholder may:

- (A) Record the lien on the manufacturer's statement of origin;
- (B) Record the lien on an existing certificate of title; or
- (C) File with the division a certified copy of the instrument creating and evidencing the lien or encumbrance.

SECTION \_\_. Arkansas Code § 27-14-906 is amended to correct obsolete references, to read as follows:

27-14-906. Dealer and lienholder applications for registration and title certificates.

(a) ~~The Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration is authorized to permit lienholders and motor vehicle dealers to make applications for registration and certificates of title and to furnish them to the Office of Motor Vehicle on behalf of the purchaser of a new or used motor vehicle.

(b) ~~The commissioner~~ director shall promulgate reasonable rules ~~and regulations~~ to be complied with by motor vehicle dealers and lienholders in making application for registration and certificates of title on behalf of purchasers of new or used motor vehicles and may, if ~~he or she deems it~~ the director deems necessary, require the dealer or lienholder to post bond to ensure faithful compliance with the rules ~~and regulations~~.

(c)(1) Any motor vehicle dealer or lienholder who has been authorized by the ~~commissioner~~ director to prepare applications for registration and certificates of title with respect to new or used motor vehicles shall transmit ~~them~~ the applications to the ~~commissioner~~ director and shall attach thereto a copy of any conditional sales contract, conditional lease, chattel mortgage, or other lien or encumbrance or title retention instrument upon the motor vehicle.

(2) Upon receipt ~~thereof~~ of the documents under subdivision (c)(1) of this section, the ~~commissioner~~ director shall file a lien and encumbrance, as provided in § 27-14-801 et seq., which shall, from the date of filing, be notice of the lien or encumbrance.

(d) On issuing the registration and certificate of title, the ~~commissioner~~ director shall mail the registration to the owner and the title to the lienholder, or to the owner if no lien exists.

(e) If the failure of a motor vehicle dealer or other lienholder to comply with the provisions of § 27-14-802 or § 27-14-806 results in the motor vehicle dealer or lienholder holding an unperfected security interest in the motor vehicle, no action shall lie against the Department of Finance and Administration for any damages resulting from the failure to perfect a security interest.

SECTION \_\_\_\_\_. Arkansas Code § 27-14-907(c), concerning the power of the Office of Motor Vehicle to adopt rules, is amended to correct an obsolete reference, to read as follows:

(c) ~~The Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration shall have the power to adopt ~~regulations~~ or rules to establish what documents or evidence are required to verify that a lien or encumbrance holder or his or her assignee has complied with this section.

SECTION \_\_\_\_\_. Arkansas Code § 27-14-1002(a)(3), concerning the definition of “Director,” is repealed to remove an obsolete reference.

~~(3) “Director” means the Director of the Department of Finance and Administration acting in his or her capacity as Commissioner of Motor Vehicles, or his or her authorized agent;~~

SECTION \_\_\_\_\_. Arkansas Code § 27-14-1202(a)(2), concerning the definition of “Director,” is repealed to remove an obsolete reference.

~~(2) “Director” means the Director of the Department of Finance and Administration acting in his or her capacity as Commissioner of Motor Vehicles of this state, also known as the Assistant Director for Revenues of the Department of Finance and Administration, or his or her authorized agents;~~

SECTION \_\_\_\_\_. Arkansas Code § 27-14-1703 is amended to correct obsolete references to read as follows:

27-14-1703 Expiration of special plates.

(a)(1) Every special plate, excluding temporary preprinted paper tags, issued under this subchapter shall expire at 12:00 midnight on December 31 of each year unless the ~~Commissioner~~

~~of Motor Vehicles~~ Director of the Department of Finance and Administration provides by rule a staggered method of annual expiration.

(2) A new plate for the ensuing year may be obtained by the person to whom any such expired plate was issued, upon application to the Office of Motor Vehicle and payment of the fee provided by law.

(b) In lieu of providing a new special plate upon the expiration of the special plate issued under this subchapter, the ~~commissioner~~ director may by rule provide for the issuance of permanent special plates that are renewed using an alternate method.

SECTION \_\_\_\_\_. Arkansas Code § 27-16-101 is amended to correct an obsolete reference to read as follows:

27-16-101. Title.

This chapter may be cited as the “~~Uniform~~ Motor Vehicle Driver’s License Act”.

SECTION \_\_\_\_\_. Arkansas Code Title 27, Chapter 16, Subchapter 1, is amended to add an additional section to contain the definitions that are being transferred from Subchapter 2, to read as follows:

27-16-104. Definitions.

As used in this chapter:

(1) “Driver” means a person who is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;

(2) “Farm tractor” means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry;

(3) “Motor vehicle” means a vehicle that is self-propelled or that is propelled by electric power drawn from overhead trolley wires but is not operated upon stationary rails or tracks;

(4) “Nonresident” means a person who is not a resident of this state;

(5)(A) “Owner” means a person who holds the legal title of a vehicle.

(B) In the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee

or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this chapter;

(6) “Person” means a natural person, firm, copartnership, association, or corporation;

(7)(A) “Resident” means any person who:

(i) Remains in this state for a period of more than ninety (90) days;

(ii) Resides in this state due to a change of abode; or

(iii) Is domiciled in this state on a temporary or permanent basis;

(B) “Resident” does not include any person who is in this state as a student.

(8)(A) “Revoke” means to terminate by formal action a driver’s license or privilege to operate a motor vehicle on a public highway, which shall not be subject to renewal or restoration.

(B) However, an application for a new license may be presented and acted upon by the Office of Driver Services after the expiration of at least one (1) year after the date of revocation;

(9) “School bus” means a motor vehicle that is owned by a public or governmental agency and operated for the transportation of children to or from school or that is privately owned and operated for compensation for the transportation of children to or from school;

(10) “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part of the way is open to the use of the public for purposes of vehicular traffic;

(11) “Suspend” means to temporarily withdraw by formal action a driver’s license or privilege to operate a motor vehicle on a public highway, which shall be for a period specifically designated by the suspending authority; and

(12) “Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

SECTION \_\_\_\_\_. Arkansas Code §§ 27-16-201 – 27-16-207, which include some outdated statutes and others which have been transferred to a new section in Chapter 16, Subchapter 1, are repealed.

~~27-16-201. Definitions generally.~~

As used in this chapter, the words and phrases defined in this subchapter shall have the meanings respectively ascribed to them, unless the context otherwise requires.

~~27-16-202. Administration.~~

~~(a) "Commissioner" means the Director of the Department of Finance and Administration acting in his or her capacity as Commissioner of Motor Vehicles of this state.~~

~~(b) "Office" means the Office of Driver Services of this state acting directly or through its duly authorized officers and agents.~~

~~27-16-203. Nonresident—Resident.~~

~~(a) "Nonresident" means every person who is not a resident of this state.~~

~~(b)(1) "Resident" means any person who:~~

~~(A) Remains in this state for a period of more than ninety (90) days;~~

~~(B) Resides in this state due to a change of abode; or~~

~~(C) Is domiciled in this state on a temporary or permanent basis.~~

~~(2) The term "resident" shall not include any person who is in this state as a student.~~

~~27-16-204. Driver—Owner—Person.~~

~~(a) "Driver" means every person who is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.~~

~~(b) "Owner" means a person who holds the legal title of a vehicle or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.~~

~~(c) "Person" means every natural person, firm, copartnership, association, or corporation.~~

~~27-16-205. Street or highway.~~



~~“Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part is open to the use of the public, as a matter of right for purposes of vehicular traffic.~~

~~27-16-206. Suspension and revocation.~~

~~(a) “Suspend” means to temporarily withdraw, by formal action, a driver’s license or privilege to operate a motor vehicle on public highways, which shall be for a period specifically designated by the suspending authority.~~

~~(b) “Revoke” means to terminate, by formal action, a driver’s license or privilege to operate a motor vehicle on the public highways, which shall not be subject to renewal or restoration. However, an application for a new license may be presented and acted upon by the Office of Driver Services after the expiration of at least one (1) year after the date of revocation.~~

~~27-16-207. Vehicles.~~

~~(a) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.~~

~~(b) “Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.~~

~~(c) “School bus” means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.~~

~~(d) “Vehicle” means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.~~

SECTION \_\_\_\_\_. Arkansas Code § 27-16-509(c), concerning reciprocal agreements for driver licensing, is amended to correct obsolete references to read as follows:

(c)(1) ~~The Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration may negotiate and consummate a reciprocal agreement as provided under this section.

(2) If the ~~commissioner~~ Director of the Department of Finance and Administration enters into a reciprocal agreement under this section, then he or she shall exercise due regard for the advantage and convenience of resident drivers and citizens of the State of Arkansas.

(3) The ~~commissioner~~ Director of the Department of Finance and Administration shall only enter into a reciprocal agreement that extends equal or greater privileges and exemptions to Arkansas motor vehicle drivers as compared to the privileges and exemptions provided to the other entity's motor vehicle drivers.

SECTION \_\_\_\_\_. Arkansas Code § 27-16-509(d), concerning reciprocal agreements for driver licensing, is amended to correct obsolete references to read as follows :

(d)(1) The ~~commissioner~~ Director of the Department of Finance and Administration shall enter into a reciprocal agreement under this section by promulgating rules in compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) The reciprocal agreement shall become effective as outlined in the reciprocal agreement.

SECTION \_\_\_\_\_. Arkansas Code § 27-16-509(e)(1)(A), concerning reciprocal agreements for driver licensing, is amended to correct obsolete references to read as follows :

(e)(1)(A) If the ~~commissioner~~ Director of the Department of Finance and Administration enters into a reciprocal agreement under this section, then he or she shall submit a report to the following:

- (i) The cochairs of the Legislative Council;
- (ii) The Chair of the House Committee on Public Transportation and the Chair of the Senate Committee on Public Transportation, Technology, and Legislative Affairs; and
- (iii) The Director of the Bureau of Legislative Research.

SECTION \_\_\_\_\_. Arkansas Code § 27-16-604(a)(9), concerning persons who are not to be awarded a driver's license, is amended to correct obsolete references to read as follows:

(9) Whose operation of a motor vehicle on the highways the ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration has good cause to believe would be inimical to public safety or welfare;

SECTION \_\_\_\_\_. Arkansas Code § 27-16-702(a)(2), concerning who may administer oaths for verification of information for a minor, is amended to correct obsolete references to read as follows:

(2) For purposes of this section, duly authorized agents of the ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration ~~shall be authorized to~~ may administer oaths without charge.

SECTION \_\_\_\_\_. Arkansas Code §27-16-801(a)(1), concerning driver's licenses generally, is amended to correct obsolete references to read as follows:

(a)(1) In a manner prescribed by the ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration :

(A) The Office of Motor Vehicle shall issue a Class D license or a Class M license to each qualified applicant for a period of eight (8) years upon payment of twenty-four dollars (\$24.00);

(B) The office shall issue a Class MD license to each qualified applicant for a period of not more than two (2) years upon payment of two dollars (\$2.00); and

(C)(i) Each applicant for a Class D license, Class M license, or Class MD license under § 27-16-704, § 27-16-807, or § 27-20-108 shall pay an examination fee of five dollars (\$5.00) for each written examination taken.

(ii) The examination fee shall be remitted in a manner prescribed by the ~~commissioner~~ director.

SECTION \_\_\_\_\_. Arkansas Code § 27-16-801(a)(4), concerning driver's licenses numbers, is amended to correct an obsolete reference to read as follows:

(4) At the time of initial issuance or at the time of renewal of a license, the distinguishing number assigned to the licensee for his or her license shall be a nine-digit number assigned to the specific licensee by the ~~commissioner~~ director.

SECTION \_\_\_\_\_. Arkansas Code § 27-16-801(b)(2), concerning the photographing of a license applicant, is amended to correct obsolete references to read as follows :

(2) A license may be valid without a photograph of the licensee when the ~~commissioner~~ director is advised that the requirement of the photograph is either objectionable on the grounds of religious belief or the licensee is unavailable to have the photograph made.

SECTION \_\_\_\_\_. Arkansas Code § 27-16-901 is amended to correct obsolete references to read as follows :

27-16-901. Expiration and renewal of licenses.

(a)(1)(A) Except for the intermediate driver's license and the learner's license, every driver's license shall expire at the end of the month in which it was issued eight (8) years from its date of initial issuance unless the ~~Commissioner of Motor Vehicles~~ Director of the Department of Finance and Administration ~~shall provide, by regulation,~~ provides by rule for some other staggered basis of expiration.

(B)(i) A learner's license shall be issued for no more than a two-year period and shall expire upon the driver's reaching sixteen (16) years of age.

(ii) Any person sixteen (16) years of age may apply for an intermediate driver's license, provided that his or her driving record is free of a serious accident and conviction of a serious traffic violation for the most recent six-month period.

(C) An intermediate driver's license shall be issued for no more than a two-year period and shall expire upon the driver's reaching eighteen (18) years of age and may be renewed at that time as a regular driver's license for eight (8) years, so long as the intermediate driver has been free of a serious accident and conviction of a serious traffic violation for at least twelve (12) months before arriving at his or her eighteenth birthday.

(2)(A) The ~~commissioner~~ director ~~shall have the authority, by regulation, to may~~ by rule shorten or lengthen the term of any driver's license period, as necessary, to ensure that approximately twenty-five percent (25%) of the total valid licenses are renewable each fiscal year.

(B)(i) All drivers' licenses subject to change under this subsection shall also be subject to a pro rata adjustment of the license fee charged in § 27-16-801(a).

(ii) The adjustment of the fee shall be carried out in the manner determined by the ~~commissioner~~ director by regulation rule.

(b) Every driver's license shall be renewable on or before its expiration upon completion of an application, payment of the fees designated in § 27-16-801, and passage of the eyesight test required in § 27-16-704 and shall be renewed without other examination, unless the ~~commissioner~~ director has reason to believe that the licensee is no longer qualified to receive a license.

SECTION \_\_\_\_\_. Arkansas Code § 27-24-703(c)(3)(B), concerning special license plates for members of the General Assembly, is amended to correct a duplicative assignment of plates to read as follows :

~~(B) The words "Lieutenant Governor" shall appear on special license plate number "1".~~

SECTION \_\_\_\_\_. Arkansas Code §§ 27-36-201 – 27-36-203, which are outdated statutes, are repealed.

~~27-36-201. Regulation of lighting devices.~~

~~(a)(1) The State Highway Commission is authorized to approve or disapprove lighting devices and to issue and enforce regulations establishing standards and specifications for the approval of lighting devices, and their installation, adjustment, and aiming, and adjustment when in use on motor vehicles.~~

~~(2) The regulations shall correlate with and, so far as practicable, conform to the then-current standards and specifications of the Society of Automotive Engineers applicable to such equipment.~~

~~(b) The commission is required to approve or disapprove any lighting device, of a type on which approval is specifically required in this subchapter, within a reasonable time after the device has been submitted.~~

~~(c) The commission is authorized to set up the procedure which shall be followed when any device is submitted for approval.~~

~~(d) The commission, upon approving any lamp or device, shall issue to the applicant a certificate of approval, together with any instructions determined by the commission.~~

~~(e) The commission shall publish lists of all lamps and devices by name and type which have been approved by the commission.~~

~~27-36-202. Revocation of certificate of approval on lighting devices.~~

~~(a)(1) When the State Highway Commission has reason to believe that an approved device as being sold commercially does not comply with the requirements of this subchapter, it may, after giving thirty (30) days' previous notice to the person holding the certificate of approval for the device in this state, conduct a hearing upon the question of compliance of the approved device.~~

~~(2)(A) After the hearing, the commission shall determine whether the approved device meets the requirements of this subchapter.~~

~~(B) If the device does not meet the requirements of this subchapter, the commission shall give notice to the person holding the certificate of approval for the device in this state.~~

~~(b)(1)(A) If, at the expiration of ninety (90) days after the notice, the person holding the certificate of approval for the device has failed to satisfy the commission that the approved device, as thereafter to be sold, meets the requirements of this subchapter, then the commission shall suspend or revoke the approval issued until or unless the device is resubmitted to and retested by an authorized testing agency and is found to meet the requirements of this subchapter.~~

~~(B) The commission may require that all such devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this subchapter.~~

~~(2)(A) At the time of the retest, the commission may purchase in the open market and submit to the testing agency one (1) or more sets of the approved devices.~~

~~(B) If the device upon the retest fails to meet the requirements of this subchapter, then the commission may refuse to renew the certificate of approval of the device.~~

~~27-36-203. Sale or use of lamps and other devices.~~

~~(a)(1) On and after July 1, 1955, no person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle, any headlamp, auxiliary, or fog lamp, rear lamp, signal lamp, or reflector, which~~

~~reflector is required under this subchapter, or parts of any of these items which tend to change the original design or performance, unless of a type which has been submitted to the State Highway Commission and approved by the commission.~~

~~(2) This subsection shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.~~

~~(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this section which has been approved by the commission unless the lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.~~

~~(c) No person shall use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless the lamps are mounted, adjusted, and aimed in accordance with instructions of the commission.~~

SECTION \_\_\_\_\_. Arkansas Code § 27-36-212, which is obsolete is repealed.

~~27-36-212. Single-beam road lighting equipment.~~

~~Headlamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles manufactured and sold prior to one (1) year after March 23, 1938, in lieu of multiple-beam road lighting equipment specified in § 27-36-210 if the single distribution of light complies with the following requirements and limitations:~~

~~(1) The headlamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of twenty five feet (25') ahead, project higher than a level of five inches (5") below the level of the center of the lamp from which it comes and in no case higher than forty two inches (42") above the level on which the vehicle stands at a distance of seventy five feet (75') ahead; and~~

~~(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet (200').~~

SECTION \_\_\_\_\_. Arkansas Code § 27-37-201, which is obsolete, is repealed.

~~27-37-201. Sale of substandard seat belts prohibited.~~

~~(a) It shall be unlawful for any person, firm, or corporation to sell, or offer for sale, any automobile seat belts which do not conform to the minimum standards prescribed for automobile seat belts by the Society of Automotive Engineers.~~

~~(b)(1) Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250).~~

~~(2) Each sale or offer for sale in violation of this section shall constitute a separate offense.~~

SECTION \_\_\_\_ . Arkansas Code § 27-37-301, which is obsolete, is repealed.

~~27-37-301. Safety glass mandatory.~~

~~(a) No person shall sell any new motor vehicle nor shall any new motor vehicle be registered which is designed or used for the purpose of transporting passengers for compensation or as a school bus unless the vehicle is equipped with safety glass wherever glass is used in doors, windows, and windshields.~~

~~(b)(1) No person shall sell any new motor vehicle unless the vehicle is equipped with safety glass wherever glass is used in the doors, windows, and windshields.~~

~~(2) No person shall replace glass in any motor vehicle in the doors, windows, and windshields other than with safety glass.~~

~~(c) The term "safety glass" shall mean any product composed of glass, so manufactured, fabricated, or treated as to substantially prevent shattering and flying glass when struck or broken, or other similar products as may be approved by the State Highway Commission.~~

~~(d)(1) The commission shall compile and publish a list of types of glass by name approved by it as meeting the requirements of this section.~~

~~(2) The commission shall not register any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glass.~~

~~(3) The commission shall suspend the registration of any motor vehicle so subject to this section which it finds is not so equipped until it is made to conform to the requirements of this section.~~



SECTION \_\_\_\_ . Arkansas Code Title 27, Chapter 38, Subchapter 2, which contains outdated statutes, is repealed .

~~Subchapter 2—Brake Fluid~~

~~27-38-201. Violations.~~

~~Any person who shall sell, offer for sale, or have in his or her possession for sale any hydraulic brake fluid which does not meet the specifications prescribed by the Director of the Department of Finance and Administration for hydraulic brake fluid shall be guilty of a misdemeanor.~~

~~27-38-202. Conformity to specifications required.~~

~~No person shall sell, offer for sale, or have in his or her possession for sale for use in motor vehicle brake systems in this state any hydraulic brake fluid unless it meets the specifications prescribed by the Director of the Department of Finance and Administration for hydraulic brake fluid.~~

~~27-38-203. Establishment of specifications.~~

~~(a)(1) The Director of the Department of Finance and Administration, after public hearing following due notice, shall promulgate such specifications for hydraulic brake fluid sold in this state as will promote the public safety in the operation of motor vehicles.~~

~~(2) The director is authorized and directed to adopt the specifications of the Society of Automotive Engineers for heavy duty brake fluids and to amend such specifications, from time to time, as may be necessary, after public hearing.~~

~~(b)(1) The director shall give notice of the minimum standards of hydraulic brake fluid adopted by him or her by inserting the notice in some newspaper of general circulation in this state.~~

~~(2) The notice shall state that specifications for hydraulic brake fluid have been established, that a copy of the specifications may be obtained by any interested person at the office of the director upon request, and that the sale of any brake fluid in this state in violation of the standards shall be unlawful.~~

~~(c) From time to time as the director may amend or change the minimum specifications for hydraulic brake fluid as those specifications may be changed by the Society of Automotive~~

~~Engineers, the director shall give notice of the change in the manner provided in this section at least thirty (30) days in advance of the effective date for the revised specifications.~~

~~27-38-204. Label requirements.~~

~~For the enforcement of this subchapter, the Director of the Department of Finance and Administration shall require that the label of each retail container in which brake fluid is sold in this state bears the name and address of the manufacturer, packer, seller, or distributor; the words "BRAKE FLUID"; and the duty type classification to show that the brake fluid meets the specifications established by the director.~~

SECTION \_\_\_\_\_. Arkansas Code Title 27, Chapter 49, Subchapter 1, is amended to add an additional section to contain definitions transferred from Subchapter 2, at §§ 27-49-201 – 27-49-219, to read as follows:

27-49-113 Definitions.

As used in this subtitle:

(1) "Business district" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage along the highway for a distance of three hundred feet (300') or more is occupied by buildings in use for business;

(2) "Crosswalk" means;

(A) That portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections; and

(B) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(3) "Driver" means a person who drives or is in actual physical control of a vehicle;

(4) "Explosives" means a chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb;

(5) “Flammable liquid” means a liquid which has a flash point of seventy degrees Fahrenheit (70° F.) or less as determined by a Tagliabue closed-cup test device or its equivalent;

(6) “Intersection” means the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two (2) highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(7) “Local authorities” means a county, municipal, or other local board or body having authority to adopt local police regulations under the Constitution and the laws of this state;

(8) “Motor vehicle” means a vehicle that is self-propelled or that is propelled by electric power drawn from overhead trolley wires but not operated upon stationary rails or tracks;

(9) “Motorcycle” means a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, excluding a tractor;

(10) “Official traffic control devices” means all signs, signals, markings, and devices not inconsistent with this act placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic;

(11) “Official traffic control signal” means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed;

(12) (A) “Owner” means a person who holds the legal title of a vehicle.

(B) In the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter;

(13) “Pedestrian” means a person afoot;

(14) “Person” means a natural person, firm, copartnership, association, or corporation;

(15) “Pneumatic tire” means a tire in which compressed air is designed to support the load;

(16) “Police officer” means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

(17) “Private road or driveway” means a way or place in private ownership and used for vehicular travel by the owner and by those having express or implied permission from the owner but not by other persons;

(18) “Railroad” means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(19) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(20) “Railroad train” means a steam engine, electric, or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

(21) “Residence district” means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet (300´) or more is in the main improved with residences or residences and buildings in use for business;

(22) “Right-of-way” means the privilege of the immediate use of the highway;

(23) “Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel;

(24) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

(25)(A) “School bus” means a motor vehicle designed to carry more than ten (10) passengers that is:

(1) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(2) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities.

(B) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(1) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(2) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities;

(26) “Semitrailer” means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle;

(27) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians;

(28) “Street” or “highway” means the entire width between boundary lines of a roadway publicly maintained when any part of the roadway is open to the use of the public for purposes of vehicular travel;

(29) “Streetcar” means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality;

(30) “Through highway” means a highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing and when stop signs are erected as provided in this act;

(31) “Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using any highway for purposes of travel;

(32) “Trailer” means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle; and

(33) “Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

SECTION \_\_\_\_\_. Arkansas Code Title 27, Chapter 49, Subchapter 2, which contain some outdated statutes, and others which will be transferred to a new section in Chapter 49, Subchapter 1, is repealed.

~~27-49-201. Definitions generally.~~

~~As used in this act, the following words and phrases shall have the meanings respectively ascribed to them in this subchapter, unless the context otherwise requires.~~

~~27-49-202. Administration.~~

~~(a) "Commissioner" means the Director of the Department of Finance and Administration in his or her capacity as the Commissioner of Motor Vehicles of this state.~~

~~(b) "Office" means the Office of Motor Vehicle within the Revenue Division of the Department of Finance and Administration, acting directly or through its duly authorized officers and agents.~~

~~(c) "State Police Department" means the Department of Arkansas State Police.~~

~~(d) "Commission" means the State Highway Commission.~~

~~27-49-203. Business and residence districts.~~

~~(a) "Business district" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred feet (300') or more is occupied by buildings in use for business.~~

~~(b) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet (300') or more is in the main improved with residences or residences and buildings in use for business.~~

~~27-49-204. Crosswalk.~~

~~"Crosswalk" means:~~

~~(1) That portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections; and~~

~~(2) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.~~

~~27-49-205. Explosives and flammable liquid.~~

~~(a) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous~~

pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(b) “Flammable liquid” means any liquid which has a flash point of seventy degrees Fahrenheit (70° F.), or less as determined by a Tabliabue or equivalent closed cup test device.

~~27-49-206. Intersection.~~

“Intersection” means the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

~~27-49-207. Local authorities.~~

“Local authorities” means every county, municipal, or other local board or body having authority to adopt local police regulations under the Constitution and laws of this state.

~~27-49-208. Persons.~~

(a) “Person” means every natural person, firm, copartnership, association, or corporation.

(b) “Pedestrian” means any person afoot.

(c) “Driver” means every person who drives or is in actual physical control of a vehicle.

(d) “Owner” means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this act.

~~27-49-209. Police officer.~~

“Police officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

~~27-49-210. Rail carriers.~~

~~(a) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.~~

~~(b) "Railroad train" means a steam engine, electric, or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.~~

~~(c) "Streetcar" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.~~

#### ~~27-49-211. Right-of-way.~~

~~"Right-of-way" means the privilege of the immediate use of the highway.~~

#### ~~27-49-212. Roadways.~~

~~(a) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.~~

~~(b) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.~~

~~(c) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.~~

~~(d) "Street or highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.~~

~~(e) "Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing it and when stop signs are erected as provided in this act.~~

#### ~~27-49-213. Safety zones.~~

~~"Safety zones" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.~~

#### ~~27-49-214. Tires.~~



~~(a) “Pneumatic tire” means every tire in which compressed air is designed to support the load.~~

~~(b) “Metal tire” means every tire the surface of which in contact with the highway that is wholly or partly of metal or other hard nonresilient material.~~

~~27-49-215. Tractors.~~

~~(a) “Truck tractor” means every motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load so drawn.~~

~~(b) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.~~

~~27-49-216. Traffic.~~

~~“Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using any highway for purposes of travel.~~

~~27-49-217. Traffic signals and devices.~~

~~(a) “Official traffic control devices” means all signs, signals, markings, and devices not inconsistent with this act placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.~~

~~(b) “Official traffic control signal” means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.~~

~~(c) “Railroad sign or signal” means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.~~

~~27-49-218. Trailers.~~

~~(a) “Trailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.~~

~~(b) “Semitrailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.~~

~~27-49-219. Vehicles.~~

~~(a) “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.~~

~~(b) “Motor vehicles” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.~~

~~(c) “Motorecycle” means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground but excluding a tractor.~~

~~(d)(1) “Authorized emergency vehicle” means authorized emergency vehicles, which shall include:~~

~~(A) Motor vehicles used by state, county, or city and municipal police agencies, all of which shall be equipped with:~~

~~(i) Blue lights; or~~

~~(ii) Blue, red, or white rotating or flashing emergency lights;~~

~~(B)(i) Motor vehicles used by state, county, city, or municipal fire departments, motor vehicles owned and used by volunteer fire fighters while engaged in official duties, motor vehicles used by emergency medical services personnel licensed by the Department of Health or privately owned fire departments, and ambulances used solely for ambulance purposes that are approved as ambulances in accordance with state and federal highway safety standards, all of which shall be equipped with red rotating or flashing emergency lights.~~

~~(ii) Flashing emergency lights shall be used by volunteer fire fighters solely while engaged in the performance of duties as volunteer fire fighters and by~~

~~emergency medical services personnel solely while engaged in the performance of duties with an ambulance service licensed by the department or an organized rescue squad or team;~~

~~(C)(i) Motor vehicles owned by state, county, and municipal agencies whose use is determined by the state agency to be required for dangerous or hazardous services and motor vehicles owned by public service corporations or private individuals whose use is determined by the Commissioner of Motor Vehicles, in accordance with regulations established by the commissioner to prevent abuses thereof, to be for extra hazardous service, may be equipped with amber flashing or rotating emergency or warning lights that shall not qualify them as emergency vehicles, but which shall during hazardous uses display their amber flashing or rotating emergency or warning lights in order that other motorists and the public may be aware of the special or hazardous use of the vehicles and shall exercise caution in approaching the vehicles at all times while the amber flashing or rotating emergency or warning lights are in operation.~~

~~(ii) All hazardous service vehicles shall conform to regular traffic signals and speed limits during their operation; and~~

~~(D)(i) Motor vehicles utilized as wreckers or tow vehicles permitted or licensed under § 27-50-1203 may be equipped with amber flashing or rotating emergency or warning lights that shall not qualify them as emergency vehicles, but which shall only during hazardous uses display their amber flashing or rotating emergency or warning lights in order that other motorists and the public may be aware of the special or hazardous use of the wreckers or tow vehicles and exercise caution in approaching the wreckers or tow vehicles at all times while the amber flashing or rotating emergency or warning lights are in operation. Unless otherwise directed by a law enforcement officer, a wrecker or tow vehicle shall conform to regular signals and speed limits during its operation. In addition to amber flashing or rotating emergency or warning lights, wreckers or tow vehicles that respond to highway emergencies may be equipped with red flashing or rotating emergency or warning lights.~~

~~(ii) Red flashing or rotating emergency or warning lights on a wrecker or tow vehicle shall be operated only while the wrecker or tow vehicle is stopped on or within ten feet (10') of a public way and engaged in recovery or loading and hooking up an abandoned, an unattended, a disabled, or a wrecked vehicle. A wrecker or tow vehicle shall not~~

~~operate forward-facing red flashing or rotating emergency or warning lights while underway, except as may be expressly authorized or required by law otherwise.~~

~~(2) It shall be unlawful to install, operate, or use any rotating or flashing light on any motor vehicle except as authorized in this subsection.~~

~~(e)(1) "School bus" means a motor vehicle designed to carry more than ten (10) passengers:~~

~~(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or~~

~~(B) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities.~~

~~(2) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:~~

~~(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or~~

~~(B) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.~~

SECTION \_\_\_\_ . Arkansas Code Title 27, Chapter 51, Subchapter 9, is amended to add a new section as follows, to contain substantive provisions currently contained in the definitions at § 27-49-219.

27-51-905. Use of flashing emergency lights

(a)(1) Motor vehicles used by state, county, city, or municipal fire departments, motor vehicles owned and used by volunteer fire fighters while engaged in official duties, motor vehicles used by emergency medical services personnel licensed by the Department of Health or privately owned fire departments, and ambulances used solely for ambulance purposes that are approved as ambulances in accordance with state and federal highway safety standards, all of which shall be equipped with red rotating or flashing emergency lights.

(2) Flashing emergency lights shall be used by volunteer firefighters solely while engaged in the performance of duties as volunteer firefighters and by emergency medical services personnel solely while engaged in the performance of duties with an ambulance service licensed by the department or an organized rescue squad or team.

(b)(1) Motor vehicles owned by state, county, and municipal agencies whose use is determined by the state agency to be required for dangerous or hazardous services and motor vehicles owned by public service corporations or private individuals whose use is determined by the Office of Motor Vehicle, in accordance with regulations established by the office to prevent abuses thereof, to be for extra hazardous service, may be equipped with amber flashing or rotating emergency or warning lights that shall not qualify them as emergency vehicles, but which shall during hazardous uses display their amber flashing or rotating emergency or warning lights in order that other motorists and the public may be aware of the special or hazardous use of the vehicles and shall exercise caution in approaching the vehicles at all times while the amber flashing or rotating emergency or warning lights are in operation.

(2) All hazardous service vehicles shall conform to regular traffic signals and speed limits during their operation.

(c)(1) Motor vehicles utilized as wreckers or tow vehicles permitted or licensed under § 27-50-1203 may be equipped with amber flashing or rotating emergency or warning lights that shall not qualify them as emergency vehicles, but which shall only during hazardous uses display their amber flashing or rotating emergency or warning lights in order that other motorists and the public may be aware of the special or hazardous use of the wreckers or tow vehicles and exercise caution in approaching the wreckers or tow vehicles at all times while the amber flashing or rotating emergency or warning lights are in operation. Unless otherwise directed by a law enforcement officer, a wrecker or tow vehicle shall conform to regular signals and speed limits during its operation. In addition to amber flashing or rotating emergency or warning lights, wreckers or tow vehicles that respond to highway emergencies may be equipped with red flashing or rotating emergency or warning lights.

(2) Red flashing or rotating emergency or warning lights on a wrecker or tow vehicle shall be operated only while the wrecker or tow vehicle is stopped on or within ten feet (10') of a public way and engaged in recovery or loading and hooking up an abandoned, an unattended, a disabled, or a wrecked vehicle. A wrecker or tow vehicle shall not operate forward-facing red flashing or rotating emergency or warning lights while underway, except as may be expressly authorized or required by law otherwise.

(d) It is unlawful to install, operate, or use any rotating or flashing light on any motor vehicle except as authorized in this section.

SECTION \_\_\_\_ . Arkansas Code § 27-50-204(a)(2), which is an outdated provision, is repealed.

~~(2) Employees of the Weights and Standards Division of the Arkansas State Police shall be eligible for employment under this subchapter without meeting the qualifications that may be established by the commission.~~

SECTION \_\_\_\_ . Arkansas Code § 27-50-205(b), concerning the power and authority of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, is amended to correct an obsolete reference, to read as follows:

(b) This responsibility shall include, but not be limited to, a full responsibility along with the Department of Arkansas State Police and the ~~Arkansas Transportation Commission~~ ~~[abolished]~~ Arkansas State Highway and Transportation Department for enforcement of the Hazardous Materials Transportation Act of 1977, § 27-2-101 et seq., and the rules ~~and regulations~~ promulgated thereunder.

SECTION \_\_\_\_ . Arkansas Code § 27-50-307(b), concerning revocation of a license, is amended to correct an obsolete reference to read as follows:

(b) The ~~commissioner~~ Director of the Department of Finance and Administration shall revoke the operator's or chauffeur's license of any person convicted of negligent homicide under the provisions of this section.

SECTION \_\_\_\_ . Arkansas Code §§ 27-50-402 – 27-50-407, which are outdated statutes that were rendered ineffective by the repeal of § 27-50-401, are repealed.

~~27-50-402. Penalty mandatory.~~

~~The penalty provided in § 27-50-401 [repealed] is mandatory and shall be levied in connection with each conviction as provided in that section, and no court shall have the power or authority to suspend, postpone, or forgive the collection of any penalty as provided in this subchapter.~~

~~27-50-403. Applicable only to certain cities.~~

~~The penalties as provided in § 27-50-401 [repealed], and the collection thereof, shall only apply to those cities of the first and second class that provide retirement coverage to certified police personnel under provisions of Arkansas law establishing the policemen's pension and relief fund, and those cities which have adopted coverage for certified police personnel under the Arkansas Local Police and Fire Retirement System, since July 1, 1981.~~

~~27-50-404. Disposition of funds.~~

~~All penalties collected under the provisions of this subchapter shall be deemed to be collected for the benefit of employees of the policemen's pension and relief fund or for payments to fund the employer's share of retirement cost for certified police personnel, covered under the Arkansas Local Police and Fire Retirement System.~~

~~27-50-405. Penalties to be remitted monthly.~~

~~All penalties collected under the provisions of this subchapter shall be remitted by the collecting officials to the city treasurer, city clerk, or city recorder for deposit into the policemen's pension and relief fund or for deposit into the Arkansas Local Police and Fire Retirement System subsidy account or city general fund, on or before the fifth day of the month following the month of collection thereof in each city of the first or second class providing retirement coverage to certified police personnel.~~

~~27-50-406. Failure to collect and remit.~~

~~(a) Any official charged with the duty of collecting any of the penalties as prescribed in this subchapter shall be guilty of misfeasance in office and shall be subject to removal from office upon failure to collect the penalties and remit them to the city treasurer, city clerk, or city recorder in each respective city of the first and second class of this state that provides retirement coverage to certified police personnel under the policemen's pension and relief fund or the Arkansas Local Police and Fire Retirement System since July 1, 1981.~~

~~(b) In addition, he or she shall be liable on his or her official bond for any penalties which are not collected or remitted as required in this subchapter.~~

~~27-50-407. Annual audit.~~

~~The records of all officials charged with the duty of collecting penalties as prescribed in this subchapter shall be audited annually by the Director of the Department of Finance and Administration or his or her designated agents.~~

SECTION \_\_\_\_\_. Arkansas Code § 27-50-802 is amended to remove an obsolete reference to a repealed federal statute to read as follows :

27-50-802. Certain speeding convictions not excluded in reports – Exception for chauffeurs.

(a) All courts in this state required by law to furnish records of convictions of all motor vehicle violations to the Office of Driver Services of the Department of Finance and Administration shall continue to furnish the records, but in compiling reports of convictions of traffic violations, the Office of Driver Services shall not include in the traffic violation report of any individual any conviction for the offense of speeding if the conviction is based on speeding upon a public highway in excess of ~~fifty-five miles per hour (55 m.p.h.)~~ speed limit the speed limit of fifty-five miles per hour (55 m.p.h.) ~~as established pursuant to Public Law 93-239 of January 2, 1974,~~ but less than seventy-five miles per hour (75 m.p.h.).

(b) The Office of Driver Services shall include in the traffic violation report of any person holding a chauffeur's license any conviction for the offense of speeding in excess of the ~~fifty-five miles per hour (55 m.p.h.)~~ fifty-five-miles-per-hour speed limit ~~as established pursuant to Public Law 93-239 of January 2, 1974,~~ to the employer of the person and shall furnish the complete driver history record of the person pursuant to a written authorization as provided in § 27-50-908 to the employer of the person holding a chauffeur's license

SECTION \_\_\_\_\_. Arkansas Code § 27-50-1211(b), concerning a bond to be executed pursuant to the now-defunct blanket bond program, the operation of which was suspended by the adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq., is repealed.

~~(b) The secretary-treasurer shall execute a bond in the amount determined by the State Risk Manager pursuant to the blanket bond program as authorized in § 21-2-601 et seq.~~



SECTION \_\_\_\_ . Arkansas Code § 27-51-103, is amended to remove obsolete references to repealed acts, to read as follows:

27-51-103. Right to recover damages unaffected.

(a) ~~Nothing in this act shall be construed to~~ This act does not curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to persons or property resulting from the negligent use of the highways by the driver or operator of a motor vehicle or its owner or his or her employee or agent.

(b) ~~In any action brought to recover any damages for injury either to person or property caused by running any motor vehicle at a greater rate of speed than designated in Acts 1911, No. 134, § 10, the plaintiff shall be deemed to have made a prima facie case by showing the fact of the injury and that the person driving the motor vehicle was at the time of the injury running it at a rate of speed in excess of that mentioned in Acts 1911, No. 134, § 10.~~

SECTION \_\_\_\_ . Arkansas Code § 27-51-211, which is an outdated statute, is repealed.

~~27-51-211. Use of nonpneumatic tires.~~

~~No person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of ten miles per hour (10 m.p.h.).~~

SECTION \_\_\_\_ . Arkansas Code § 27-51-404(b), concerning signal lamp placement, is amended to remove an obsolete provision, to read as follows:

(b) Any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lamps ~~when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of the motor vehicle exceeds twenty-four inches (24") or when the distance from the center of the top of the steering post to the rear limit of the body or load exceeds fourteen feet (14'). The latter measurement shall apply to any single vehicle and also to any combination of vehicles.~~

SECTION \_\_\_\_ . Arkansas Code § 27-51-704(a), concerning due care when carrying explosives or flammable liquids, is amended to remove an obsolete provision, to read as follows:

(a) The operator of any truck carrying any explosive substances or flammable liquids or gases as a cargo or part of a cargo shall, before crossing any railroad tracks, stop the vehicle within fifty

feet (50') but not less than fifteen feet (15') from the nearest railroad and while stopped shall ~~open the door of the truck on the driver's side or roll down the window at least twelve inches (12") in order to remove any obstruction of the sound of a train whistle.~~ He or she shall also listen and look in both directions along the track for any approaching train or signals indicating the approach of a train and shall proceed to cross the tracks only after ~~he or she~~ the operator has determined that it is safe to do so.

SECTION \_\_\_\_ . Arkansas Code §§ 27-51-801 and 27-51-802, which are obsolete, are repealed.

~~27-51-801. Passing streetcar on left.~~

~~(a) The driver of a vehicle shall not overtake and pass upon the left nor drive upon the left side of any streetcar proceeding in the same direction, whether the streetcar is actually in motion or temporarily at rest, except:~~

~~(1) When so directed by a police officer;~~

~~(2) When upon a one-way street; or~~

~~(3) When upon a street where the tracks are so located as to prevent compliance with this section.~~

~~(b) The driver of any vehicle, when permitted to overtake and pass upon the left of a streetcar which has stopped for the purpose of receiving or discharging any passenger, shall reduce speed and may proceed only upon exercising due caution for pedestrians and shall accord pedestrians the right of way when required by other sections of this chapter.~~

~~27-51-802. Passing streetcar on right.~~

~~The driver of a vehicle overtaking upon the right any streetcar stopped or about to stop for the purpose of receiving or discharging any passenger shall stop the vehicle at least five feet (5') to the rear of the nearest running board or door of the streetcar and thereupon remain standing until all passengers have boarded the car or, upon alighting, have reached a place of safety. However, where a safety zone has been established, a vehicle need not be brought to a stop before passing any streetcar but may proceed past such car at a speed not greater than is reasonable and proper and with due caution for the safety of pedestrians.~~

SECTION \_\_\_\_\_. Arkansas Code §§ 27-51-1406 and 27-51-1407, which are outdated statutes, are repealed.

~~27-51-1406. Warning by motorists to persons and animals on highway.~~

~~Upon approaching a person walking upon or along a public highway or a horse or other draft animal being ridden, led, or driven thereon, the operator of a motor vehicle or motor bicycle shall give reasonable warning of his or her approach and use every reasonable precaution to avoid injuring the persons or frightening the horses or other draft animals.~~

~~27-51-1407. Stopping for frightened horses.~~

~~(a) Whenever it shall appear that any horse ridden or driven by any person upon any streets, roads, and highways is about to become frightened by the approach of any motor vehicle, it shall be the duty of the person driving or conducting the motor vehicle to cause it to come to a full stop until the horse shall have passed and, if necessary, assist in preventing an accident.~~

~~(b) Any person convicted of violating this section shall be fined in any sum not to exceed two hundred dollars (\$200).~~

SECTION \_\_\_\_\_. Arkansas Code § 27-66-204, which is an outdated statute, is repealed.

~~27-66-204. Certain direct routes to county courthouse.~~

~~The county judge in his or her discretion may designate as a county road any road that is the most direct route to the county courthouse for ten (10) or more families if that road is graded and has been used by the general public as a road for at least two (2) years.~~

SECTION \_\_\_\_\_. Arkansas Code §§ 27-66-502 – 27-66-505, which are outdated statutes, are repealed.

~~27-66-502. License required for use of rough metal tires.~~

~~The using, driving, or operating upon any improved hard-surfaced public highway of this state of any tractor, truck, automobile, or other vehicle having corrugated, spiked, jointed, or other rough-surfaced metal tires is prohibited without first procuring from the county judge of the county in which the road is situated a license permitting such use or operation.~~

~~27-66-503. Penalty.~~

~~Any person violating § 27-66-502 or, after publication of the notices required above, using, driving, or operating on any road or highway any vehicle, loaded or empty of greater weight than that described or provided for in such order or classification as the commission shall have made with reference to a road or highway, shall be deemed guilty of a misdemeanor. Upon conviction, that person shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100). Each day's use of any such vehicle shall constitute a separate offense.~~

~~27-66-504. Civil liability.~~

~~In addition to the penalty prescribed in § 27-66-503, the person convicted of violation of §§ 27-66-501 — 27-66-504, or of the orders of classifications of the commission shall be liable in a civil action for all damage occasioned or caused by such violation. However, as to a special trip for the movement of some particular thing or vehicle from one (1) location to another, the fine or penalty provided in § 27-66-503 shall not apply, but that person shall be civilly liable to the proper county or road improvement district for all damages which he may occasion to the public highway over which such movement is made.~~

~~27-66-505. Prohibition on use of heavily loaded vehicles during emergencies.~~

~~(a) The county court of each county acting through the county judge is given the authority in times of emergency caused by unusually heavy or long-continued rainfalls or by freezes, thaws, snows, and other unusual conditions caused by the elements to prohibit vehicles having a net load of more than three thousand five hundred pounds (3,500 lbs) from operating on or over the county highways whereon such conditions exist until the time that the county judge shall determine that the emergency has passed.~~

~~(b) Whenever, in the judgment of the county judge, an emergency arises in his or her county, as described in subsection (a) of this section, he or she shall cause notice to be posted in the county courthouse to the effect that until further notice the operation of vehicles having a net load of more than three thousand five hundred pounds (3,500 lbs) over the highways described in the notice is prohibited. Notice shall also be posted in at least ten (10) of the most prominent and public places in the county and be published in a newspaper in the county if practicable. Notice may also be given by mail, telephone, or personal contact to persons operating vehicles, and~~

~~notice by mail, telephone, or personal contact shall be sufficient notice for the purposes of this section.~~

~~(c) If any person, after having knowledge that the operation of vehicles over the county highways or any designated part thereof having a net load of more than three thousand five hundred pounds (3,500 lbs) has been prohibited by the county judge during an emergency as described in this section, violates this section by using the roads contrary to the order of the county judge, the person shall be guilty of a misdemeanor. Upon conviction, he or she shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200).~~

SECTION \_\_\_\_\_. Arkansas Code § 27-88-121 is amended to remove obsolete statute references to repealed acts, to read as follows:

27-88-121. Right of eminent domain.

For the purpose of acquiring any land, rights, easements, franchises, or other real or personal property deemed to be necessary or convenient for the construction and reconstruction of any bridge or ferry, or for the acquisition of the approaches thereto, the State Highway Commission shall have the right of eminent domain, as is provided in Aets 1927, No. 116, § 5 and Aets 1933, No. 115, § 1 and in §§ 27-64-104 and 27-67-316.

SECTION \_\_\_\_\_. Arkansas Code §§ 27-87-102 – 27-87-107, which are outdated statutes, are repealed.

~~27-87-102. Ferrykeeper's neglect of duty—Penalties.~~

~~(a) Any person detained at any public ferry by reason of the ferrykeeper not having sufficient boats or other proper craft and hands to work it, or by neglecting his or her duty in any way, may make application to a justice of the peace in the township where the ferry is located for a warrant of arrest.~~

~~(b) The justice of the peace is required to issue the warrant of arrest and impose a fine on the ferrykeeper, not exceeding twenty-five dollars (\$25.00), as the justice of the peace may find just and equitable.~~

~~(c) The fine shall not extend to, or be deemed a bar to, any action for personal damages sustained by any person or persons by reason of the insufficiency of the ferry or boats.~~

~~27-87-103. Public ferry on private stream.~~

~~(a) Where a public road crosses any private stream which has not been meandered as a navigable stream, the bed of which may belong to any individual, if in the opinion of the county court, the public convenience will be promoted thereby, the court may make an order upon its record to that effect, declaring the crossing to be a public ferry.~~

~~(b) And when so declared by the county court, the ferry shall be and remain a public ferry during the pleasure of the court and be subject to all the regulations and restrictions that are made by law applicable to public ferries on navigable streams.~~

~~27-87-104. Eligibility to keep ferry.~~

~~(a) Every person owning the land fronting on any public navigable stream shall be entitled to the privilege of keeping a public ferry over or across the navigable stream if that person:~~

~~(1) Owns the land on both sides or banks; or~~

~~(2) Shall have possession of both sides or banks by preemption or settlement right and shall be entitled to the sole and exclusive right of ferriage at that place.~~

~~(b) If the person owns the lands on one (1) side only, or has possession thereof by preemption or settlement right, he or she shall have the privilege of:~~

~~(1) A public ferry from his or her own shore;~~

~~(2) Making the landing and road up the opposite bank;~~

~~(3) Keeping them at all times in good repair and condition for ascending and descending; and~~

~~(4) An exclusive right to all ferry privileges in any such case shall follow any leasehold interest during the life of the lease and the faithful performance of all municipal, county, and state obligations.~~

~~(c) The right shall not be impaired by any packet trade or company, or otherwise, under penalty of one hundred dollars (\$100) fine of any owner or manager of the packet enterprise or the party in any way violating the spirit or letter hereof, to be recovered by appropriate action in any court having jurisdiction, at the instance of the injured party.~~

~~(d) Each day's interference shall constitute a separate offense.~~

~~27-87-105. Exclusiveness of privilege.~~

~~The county court shall not permit any ferry to be established within one (1) mile above or below any ferry previously established, except at or near cities and towns where the public convenience may require it and satisfactory proof of the need shall be first adduced.~~

SECTION \_\_\_\_ . Arkansas Code Title 27, Chapter 87, Subchapter 2, which are outdated statutes, are repealed.

~~27-87-201. Taking toll without license — Penalty.~~

~~If any person shall keep any ferry over any navigable stream, for which he or she shall charge any person any money or any other valuable thing, without complying with the provisions of this chapter in relation to obtaining license, he or she shall forfeit and pay to every other person having a licensed ferry on the same stream or lake in the same county five dollars (\$5.00) for every person so ferried, and the same sum for every vehicle or other article so transported which may be the subject of a separate charge is to be sued for and recovered before any justice of the peace in the county by civil action founded on this statute, with the costs of prosecution.~~

~~27-87-202. License — Navigable waterways generally.~~

~~(a) No person shall keep any ferry over or across any public navigable stream or lake so as to charge any compensation for crossing the stream or lake without first procuring a license from the county court of the county in which the ferry is situated.~~

~~(b) Any person wishing to establish a ferry across any navigable stream in this state shall apply to the county court of the county in which the ferry site may be.~~

~~(c) The county court shall grant a license to the applicant for the term of one (1) year from the date of the license upon the applicant's:~~

- ~~(1) Showing lawful possession of the land on which the ferry is sought to be established;~~
- ~~(2) Satisfying the court that the public convenience will be promoted thereby;~~
- ~~(3) Paying the tax levied by the county court for the privilege of the ferry; and~~
- ~~(4) Executing the bond required by this chapter.~~

~~27-87-203. License — Stream on county boundary.~~

~~If any navigable stream or lake shall form a portion of the boundary of any county, so that one bank is in one county and the other is in a different county at the place where it is proposed to erect a ferry, a license shall be had from the county court for the ferry on the counties' respective banks or shores.~~

~~27-87-204. Operation by advertisement.~~

~~(a) Any person wishing to put into operation any public ferry when the county court is not in session may do so by putting up an advertisement at the ferry, stating that he or she intends to apply at the next county court for a license for the ferry, and he or she may charge and receive the usual rates of ferriage until the county court shall meet.~~

~~(b) The county court, in cases where ferries have been put in operation in vacation of the court, by advertisement shall grant to the person a license at the next term of such court on his or her applying for it and complying with the provisions of this chapter as in cases of other ferries, which shall relate back for one (1) year from the time of putting the ferry in operation by advertisement.~~

~~(c) Any person putting a ferry across any navigable stream in operation by advertisement who shall fail or neglect at the next term of the county court to apply for a license and in all respects to comply with the orders of the county court in respect thereto shall by notice served on him or her by order of the county court be required to appear at its next term and show cause, if any, why he or she should not be fined. If no sufficient legal reason is shown, he or she shall be fined by the court in any sum not exceeding thirty dollars (\$30.00). These proceedings shall be had without the necessity of formal pleadings.~~

~~27-87-205. Tax — Assessment.~~

~~(a) Before any ferry shall be established, the court shall determine what tax shall be paid by the applicant for the privilege of the ferry, which shall not be less than one dollar (\$1.00) nor more than one hundred dollars (\$100).~~

~~(b) It shall be the duty of the county courts to levy a tax on all ferry privileges in their respective counties whether application be made by any person for the same or not. However, no ferry at which the public county road does not cross shall be subject to the tax herein provided.~~



~~27-87-206. License — Issuance.~~

~~It shall be the duty of the clerk of the county court, immediately after the assessment of any tax for ferry privileges by the court, to issue a license for the ferrykeeper to whom the privileges were granted and to deliver it to the sheriff and charge him or her with the amount thereof, in the same manner that he or she is required to be charged with other county revenue.~~

~~27-87-207. Tax — Failure to pay.~~

~~(a) It shall be the duty of the sheriff to present the licenses named in § 27-87-206 to the proper ferryman within twenty (20) days after they are issued.~~

~~(b) If the amount is not paid, the sheriff shall retain the license.~~

~~(c) Twenty (20) days thereafter, if the amount is still unpaid, it shall be the duty of the sheriff to levy on and sell the property of the ferrykeeper to satisfy the amount of the ferry tax, in the same manner and under the same restrictions as lands and tenements, goods, and chattels are required to be levied on and sold under executions on judgments at law.~~

~~(d) If sufficient property of the ferrykeeper cannot be found to make the amount of his or her ferry tax, it shall be the duty of the sheriff to return a statement of the facts to the next term of the county court, whose duty it shall be to order a seire facias issued against the securities of the ferrykeeper, returnable to the next term of the court.~~

~~(e) If sufficient cause shall not be shown to the contrary, the court shall order judgment against his securities for the amount found due with all costs.~~

~~27-87-208. Tax — Sheriff's settlement.~~

~~The sheriff shall settle for the amount collected by him or her for ferry tax in the manner and at the time that he or she is required to settle for other revenue of the county.~~

~~27-87-209. Tax or charge — Stream on state boundary.~~

~~When a navigable stream makes a part of the boundary line of this state, if any tax or charge shall be assessed or collected by any adjoining state for the privilege of a ferry landing on the shore or bank of another state from this state, then the same tax or duty shall be assessed and collected for like privilege of landing on the banks or shores of this state.~~

SECTION 57. Arkansas Code Title 27, Chapter 87, Subchapter 3, which are outdated statutes, are repealed.

~~27-87-301. Requirement and terms.~~

~~The county court shall have authority and is required to compel all persons who are authorized to keep a public ferry to give bond and good security in such sum as the court may deem sufficient to the judge of the county court and his or her successors in office. This bond shall be conditioned that the ferrykeeper will constantly find, provide, and keep good and sufficient boats or other proper craft in constant good repair and the banks on either side of the creek or watercourse that may be ferried in good condition and that the ferry shall always be so attended as to pass all persons and their horses and other stock, vehicles, and effects in safety and without detention and that he or she will comply with all the requisitions of the law relating to or governing public ferries.~~

~~27-87-302. Damages.~~

~~If any persons sustaining damage by reason of a ferrykeeper not having complied with the conditions of bond, the persons sustaining the damage may bring suit against the ferrykeeper on the bond in the name of the judge of the county court and recover for such nonperformance of the conditions so much damage as they shall appear to have sustained and take out execution for whatever shall be recovered.~~

~~27-87-303. Liability of sureties.~~

~~In all cases of recoveries against ferrykeepers for violations of this chapter, if after judgment execution shall be returned that there are no goods and chattels of the ferrykeeper whereupon to levy and make the money demanded in the execution, the justice shall issue a seire facias against the sureties of the ferrykeeper. If the securities do not show sufficient reason to the contrary, the justices shall enter judgment against the securities for the amount of debt as may be unsatisfied and issue execution therefor as in other cases.~~

SECTION \_\_\_\_ . Arkansas Code Title 27, Chapter 87, Subchapter 4, which are outdated statutes, are repealed.

27-87-401. Regulation—Fines.

(a) The toll of ferries that are established shall at all times be subject to regulation by the county court in which the ferry may be kept.

(b) Every keeper of a ferry shall keep constantly posted in some conspicuous place at the ferry the rates of toll allowed to be charged. If any ferrykeeper fails or neglects to do so, he or she shall forfeit and pay the sum of four dollars (\$4.00) for every neglect. Each day that the ferry rates are not posted shall constitute a separate offense. The sum shall be recovered in a civil action before any justice of the county, one-half (1/2) for the use of the prosecutor and one-half (1/2) to the county.

(c) Should any keeper presume to charge or demand more than what the county court may have allowed, the keeper shall forfeit and pay for every offense the sum of ten dollars (\$10.00), to be recovered before any justice of the peace of the township in which such ferry is located by any person of whom the demand may be made.

27-87-402. Record—Distribution.

(a) The court shall state on its record the rates of toll or ferriage which may be demanded for ferrying passengers, vehicles, beasts, and other property usually transported by ferries.

(b) The clerk shall make out a copy of ferriage rates under his or her official signature and give it to the person procuring a license.

27-87-403. Ferries in competition with state-owned toll bridges.

(a) All ferries operating in competition with state-owned toll bridges shall be subject to regulation as to ferry rates by the State Highway Commission and the rates to be charged shall be the same as the traffic rates prevailing upon the state-owned toll bridge with which the ferry is operated in competition.

(b) Any ferrykeeper operating and a competing ferrykeeper charging less than the rate fixed on state-owned toll bridges shall be deemed guilty of a misdemeanor and punished by a fine not to exceed fifty dollars (\$50.00) for each separate offense. However, the commission, in its discretion, may fix a lower rate on those ferries for all vehicles other than motor-propelled vehicles and riparian landowners or tenants on the lands for passing from one part of a farm to another owned or leased by the landowner or tenant.

~~(c) No ferry shall be declared to be in competition with the state-owned toll bridge unless it is within three (3) miles of a state-owned toll bridge.~~