

State of Arkansas

76th General Assembly

Regular Session, 1987

AS ENGROSSED 1/28/87

HOUSE BILL 1255

By: Representative Matthews

"AN ACT TO AMEND SUBSECTION (d) OF SECTION 1 OF ACT 106 OF 1969, AS AMENDED [ARK. STAT. 75-1045(d), TO ESTABLISH MAXIMUM PERIODS FOR THE SUSPENSION OF DRIVERS LICENSES OF DRIVERS WHO REFUSE TO SUBMIT TO A CHEMICAL TEST TO DETERMINE THE ALCOHOL CONTENT OF THEIR BLOOD; AND FOR OTHER PURPOSES."

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

SECTION 1. Subsection (d) of Section 1 of Act 106 of 1969, as amended, the same being Arkansas Statute 75-1045(d), is hereby amended to read as follows:

"(d) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency, as provided in paragraph (a) of this section, none shall be given and the person's motor vehicle operator's license shall be seized by the law enforcement officer and the officer shall immediately deliver to the person from whom the license was seized a temporary driving permit which shall expire on the date of arraignment. The arresting officer shall remit the seized operator's license to the court and upon an arraignment, the judge shall issue such person a temporary permit to expire on the date of trial. If the judge determines that the law enforcement officer had reasonable cause to believe the arrested person had been driving while intoxicated or while there was 0.10% or more of alcohol in the person's blood, and the person refused to submit to the test upon the request of the law enforcement officer, the judge shall order the Office of Driver Services to suspend the motor vehicle operator's license for: (i) a period of not less than six (6) months nor more than one (1) year if the person had not previously refused the test within three (3) years of the refusal in question and if the person had not been convicted of driving while intoxicated or driving while there was 0.10%

or more of alcohol in the person's blood within three (3) years of the refusal; (ii) a period of not less than one (1) year nor more than sixteen (16) months if the person had previously refused the test within three (3) years of the refusal in question or if the person had been convicted of driving while intoxicated or driving while there was 0.10% or more of alcohol in the person's blood within three (3) years of the refusal; (iii) a period of not less than two (2) years nor more than thirty (30) months if the person had previously refused the test two times within three (3) years of the refusal in question or if the person had been convicted of the second offense of driving while intoxicated or driving while there was 0.10% or more of alcohol in the person's blood within three (3) years of the refusal; and (iv) revocation if the person had previously refused the test three (3) times within three (3) years of the refusal in question or if the person had been convicted of the third offense of driving while intoxicated or driving while there was 0.10% or more of alcohol in the person's blood within three (3) years of the refusal. The revocation shall continue for a period of three (3) years. If the person is a nonresident, such person's privilege of operating a motor vehicle in Arkansas shall be suspended for not less than six (6) months. If the person is a resident without a license or permit to operate a motor vehicle in this State, the Office of Driver Services shall deny to the person the issuance of a license or permit for a period of six (6) months after the date of the arrest."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. Emergency. It is hereby found and determined by the General Assembly that at least one trial court judge has indicated that the DWI implied consent statute might be unconstitutional because no maximum period for the suspension of operators' licenses is indicated; that the implied consent statute is a vital weapon in combatting drunken driving; and that this Act will cure the constitutional objections. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ David Matthews