

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1530

By: Representative Givens

"AN ACT TO AMEND SUBSECTION (c) OF SECTION 30 OF ACT 280 OF 1937, AS AMENDED, SECTION 34 OF ACT 280 OF 1937, AS AMENDED, PARAGRAPH (5) OF SUBSECTION (d) OF SECTION 15 OF ACT 347 OF 1953, AS AMENDED, AND SECTION 16 OF ACT 347 OF 1953, AS AMENDED, TO PROVIDE THAT HEARINGS CONDUCTED BY THE OFFICE OF DRIVER SERVICES SHALL NOT BE SUBJECT TO THE ADMINISTRATIVE PROCEDURES ACT; TO AMEND THE PROCEDURE FOR APPEALS OF HEARINGS HELD BY THE OFFICE OF DRIVER SERVICES; AND FOR OTHER PURPOSES."

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

SECTION 1. Subsection (c) of Section 30 of Act 280 of 1937, as amended, the same being Arkansas Statutes 75-334(c), is hereby amended to read as follows:

"(c) Upon denial, suspension or revocation of the license of any person authorized under this Section, the Office of Driver Services shall notify the licensee in writing. Any licensee desiring a hearing shall notify the Office of Driver Services in writing within twenty (20) days after receipt of said denial, suspension or revocation. A hearing officer appointed by the Commissioner shall schedule a hearing in the county where the licensee resides unless the Commissioner and the licensee agree that such hearing may be held in some other county. Based upon the evidence presented at the hearing, the hearing officer shall modify, rescind, or affirm the denial, suspension or revocation of the license. Hearings conducted by the Office of Driver Services under this Section shall not be subject to the Arkansas Administrative Procedure Act, Act 434 of 1967, as amended."

SECTION 2. Section 34 of Act 280 of 1937, as amended, the same being

Arkansas Statutes 75-338, is hereby amended to read as follows:

"Section 34. Any person denied a license or whose license has been suspended or revoked by the Office of Driver Services may, within thirty (30) days of receipt of the decision by the Office of Driver Services to deny, suspend or revoke the license, file a de novo petition of review in the Pulaski County chancery court or the chancery court in the county where the licensee or interested person resides. The filing of a petition of review shall not operate as an automatic stay of the decision of the hearing officer and a determination shall be made by the chancery judge on the issue of whether a stay should be granted. The chancery judge is vested with jurisdiction to determine whether the petitioner is entitled to a license or whether the decision of the hearing officer should be affirmed, modified or reversed."

SECTION 3. Paragraph (5) of subsection (d) of Section 15 of Act 347 of 1953, as amended, the same being Arkansas Statute 75-1415(d) (5) is hereby amended to read as follows:

"(5) Any licensee desiring a hearing under the provisions of this Section shall notify the Department in writing within twenty (20) days of receipt of the Notice of Security Requirement or Suspension. Hearings conducted under this Section shall not be subject to the Arkansas Administrative Procedure Act, Act 434 of 1967, as amended."

SECTION 4. Section 16 of Act 347 of 1953, as amended, the same being Arkansas Statutes 75-1416, is hereby amended to read as follows:

"Section 16. Any order or act of the director under the provisions of this Act shall be subject to a de novo petition of review in the Chancery Court of the district in which any party of interest resides. The filing of a petition of review shall not operate as an automatic stay of any order or act of the director and a determination shall be made by the chancery judge on the issue of whether a stay should be granted. The chancery judge is vested with the jurisdiction to determine whether the petitioner is entitled to a license or whether the act or order of the Director should be affirmed, modified or reversed."

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 6. It is hereby found and determined by the General Assembly of the State of Arkansas that hearings conducted by the Office of Driver Services should not be subject to the Arkansas Administrative Procedure Act and furthermore that a uniform method should be adopted for appeals from the decisions rendered by the Office of Driver Services concerning the denial, suspension, revocation or posting of security by a licensee or other interested party. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, this Act shall be in effect from the date of its passage and approval.

