

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative D. Wood**

# A Bill

**HOUSE BILL 1881**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 27-23-103 TO CLARIFY THE  
9 DEFINITIONS OF 'ALCOHOL', 'CONVICTION', 'MOTOR VEHICLE',  
10 AND 'SERIOUS TRAFFIC VIOLATION' TO COMPLY WITH FEDERAL  
11 REGULATIONS FOR COMMERCIAL DRIVERS LICENSES; TO AMEND  
12 ARKANSAS CODE § 27-23-114 TO EMPHASIZE THE PRESENCE OF  
13 INTOXICANTS AT MEASURABLE LEVELS TO AFFECT COMMERCIAL  
14 DRIVER'S REACTIONS ARE ILLEGAL; TO AMEND ARKANSAS CODE §  
15 27-23-115 TO BROADEN THE PENALTY FOR UNLAWFUL REFUSAL TO  
16 SUBMIT TO TESTS TO ASCERTAIN INTOXICATION; AND FOR OTHER  
17 PURPOSES."

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 SECTION 1. Arkansas Code § 27-23-103 is hereby amended to read as  
22 follows:

23 "27-23-103. Definitions [Effective January 1, 1990]. As used in this  
24 chapter, unless the context otherwise requires:

25 (1) 'Alcohol' or 'alcoholic beverage' means:

26 (a) ethyl alcohol, or ethanol; or

27 (b) beer which is defined as beer, ale, stout, and other similar  
28 fermented beverages (including sake or similar products) of any name or  
29 description containing one-half of one percent (1/2 of 1%) or more of alcohol  
30 by volume, brewed or produced from malt, wholly or in part, or from any  
31 substitute therefor; or

32 (c) wine of not less than one-half of one percent (1/2 of 1%)  
33 of alcohol by volume; or

34 (d) distilled spirits, alcoholic spirits, and spirits, which are  
35 defined as those substances known as ethyl alcohol, ethanol, or spirits of

1 wine in any form (including all dilutions and mixtures thereof from whatever  
2 source or by whatever process produced).

3 (2) 'Blood alcohol concentration' means:

4 (a) The number of grams of alcohol per one hundred (100)  
5 milliliters of blood; or

6 (b) The number of grams of alcohol per two hundred ten (210)  
7 liters of breath; or

8 (c) Blood and breath quantitative measures in accordance with the  
9 current Arkansas Regulations for Blood Alcohol Testing, promulgated by the  
10 Arkansas State Department of Health.

11 (3) 'Commerce' means:

12 (a) Trade, traffic, and transportation within the jurisdiction of  
13 the United States between a place in a state and a place outside of the state,  
14 including a place outside the United States; and

15 (b) Trade, traffic, and transportation in the United States which  
16 affects any trade, traffic, and transportation within the jurisdiction of the  
17 United States between a place in a state and a place outside of the state,  
18 including a place outside the United States.

19 (4) 'Commercial driver license' (CDL) means a license issued in  
20 accordance with the requirements of this chapter to an individual which  
21 authorizes the individual to drive a class of commercial motor vehicle.

22 (5) The 'Commercial Driver License Information System' (CDLIS) is the  
23 information system established pursuant to the CMVSA to serve as a  
24 clearinghouse for locating information related to the licensing and  
25 identification of commercial motor vehicle drivers.

26 (6) 'Commercial driver instruction permit' means a permit issued  
27 pursuant to §27-23-109(d).

28 (7) 'Commercial motor vehicle' means a motor vehicle used in commerce  
29 designed or used to transport passengers or property:

30 (a) If the vehicle has a gross vehicle weight rating of twenty-  
31 six thousand one (26,001 lbs.) pounds or more;

32 (b) If the vehicle is designed to transport sixteen (16) or more  
33 passengers, including the driver; or

34 (c) If the vehicle is transporting hazardous materials and is  
35 required to be placarded in accordance with 49 C.F.R. part 172, sub-part F;

1           (8) 'Controlled substance' means a drug, substance, or immediate  
2 precursor in Schedules I-VI of the Uniform Controlled Substances Act, §§  
3 5-64-101 et seq.

4           (9) 'Conviction' means an unvacated adjudication of guilt, or a  
5 determination that a person has violated or failed to comply with the law in a  
6 court of original jurisdiction or by an authorized administrative tribunal, an  
7 unvacated forfeiture of bail or collateral deposited to secure the person's  
8 appearance in court, a plea of guilty or nolo contendere accepted by the  
9 court, the payment of a fine or court order, or violation of a condition of  
10 release without bail, regardless of whether or not the penalty was rebated,  
11 suspended, or prorated.

12           (10) 'Disqualification' means a prohibition against driving a  
13 commercial motor vehicle.

14           (11) 'Drive' means to drive, operate or be in physical control of a  
15 commercial motor vehicle on any public street or highway in the state or in  
16 any place open to the general public for purposes of vehicular traffic.

17           (12) 'Driver' means any person who drives, operates, or is in physical  
18 control of a commercial motor vehicle on any public street or highway in the  
19 state or in any place open to the general public for purposes of vehicular  
20 traffic.

21           (13) 'Driver license' means a license issued by a state to an  
22 individual which authorizes the individual to drive a motor vehicle.

23           (14) 'Employer' means any person, including the United States, a  
24 state, or a political subdivision of a state, who owns or leases a commercial  
25 motor vehicle, or assigns a person to drive a commercial motor vehicle.

26           (15) 'Felony' means any offense under state or federal law that is  
27 punishable by death or imprisonment for a term exceeding one year.

28           (16) 'Foreign jurisdiction' means any jurisdiction other than a state  
29 of the United States.

30           (17) 'Gross vehicle weight rating' (GVWR) means the value specified by  
31 the manufacturer(s) as the maximum loaded weight of a single or a combination  
32 (articulated) vehicle, or registered gross weight, whichever is greater. The  
33 GVWR of a combination (articulated) vehicle (commonly referred to as the  
34 'gross combination weight rating' or GCWR) is the GVWR of the power unit plus  
35 the GVWR of the towed unit or units.

1 (18) 'Hazardous materials' has the meaning as that found in Section  
2 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).

3 (19) 'Motor vehicle' means a vehicle, machine, tractor, trailer, or  
4 semitrailer propelled or drawn by mechanical power used on highways, except  
5 that the term does not include a vehicle, machine, tractor, trailer,  
6 semitrailer operated exclusively on a rail.

7 (20) 'Nonresident CDL' means a commercial driver license issued by a  
8 state to an individual who resides in a foreign jurisdiction.

9 (21) 'Out of service order' means a temporary prohibition against  
10 driving a commercial motor vehicle.

11 (22) 'Serious traffic violation' means a conviction, when operating a  
12 commercial motor vehicle, of:

13 (a) Excessive speeding, involving any single offense for any  
14 speed of fifteen (15) miles per hour or more above the posted speed limit; or

15 (b) Reckless driving, as defined by state or local law or  
16 regulation, including, but not limited to, offenses of driving a commercial  
17 motor vehicle in wilful or wanton disregard for the safety of persons or  
18 property; or

19 (c) Improper or erratic traffic lane changes; or

20 (d) Following the vehicle ahead too closely; or

21 (e) A violation, arising in connection with a fatal accident, of  
22 state or local law relating to motor vehicle traffic control, other than a  
23 parking violation. Serious traffic violations shall not include weight or  
24 defect violations.

25 (23) 'State' means a state of the United States and the District of  
26 Columbia; and

27 (24) 'United States' means the fifty states and the District of  
28 Columbia."

29

30 SECTION 2. Subdivision (a) (1) of Arkansas Code § 27-23-114 is hereby  
31 amended to read as follows:

32 "(a) (1) It is unlawful and punishable as provided in this chapter for  
33 any person who is intoxicated to operate or be in physical control of a  
34 commercial motor vehicle. The term 'intoxicated' means influenced or  
35 affected by the ingestion of alcohol, a controlled substance, any intoxicant,

1 or any combination thereof, at such measurable level so that the driver's  
2 reactions, motor skills, and judgment are substantially altered, and the  
3 driver therefore constitutes a clear and substantial danger of physical injury  
4 or death to himself and other motorists or pedestrians."

5

6 SECTION 3. Arkansas Code § 27-23-115 is hereby amended to read as  
7 follows:

8 "27-23-115. Implied consent requirements for commercial motor vehicle  
9 drivers [Effective January 1, 1990].

10 (a) A person who drives a commercial motor vehicle within this state  
11 shall be deemed to have given consent, subject to the provisions of §5-65-203,  
12 to take a test or tests of that person's blood, breath, or urine for the  
13 purpose of determining that person's blood alcohol concentration or the  
14 presence of other drugs.

15 (b) A test or tests may be administered at the direction of a law  
16 enforcement officer who, after stopping or detaining the commercial motor  
17 vehicle driver, has probable cause to believe that driver was driving a  
18 commercial motor vehicle while having alcohol in his or her system. It shall  
19 be unlawful and punishable as provided in this subchapter for any person so  
20 stopped or detained to refuse to submit to such test or tests to determine  
21 that person's blood alcohol concentration or the presence of other drugs.

22 (c) A person requested to submit to a test as provided in subsection  
23 (a) of this section must be warned by the law enforcement officer requesting  
24 the test that a refusal to submit to the test will result in that person being  
25 disqualified from operating a commercial motor vehicle under §27-23-112.

26 (d) If the person is under arrest and refuses testing, none shall be  
27 given and the person's commercial driver license shall be seized by the law  
28 enforcement officer, and the officer shall immediately deliver to the person  
29 whose license was seized a temporary commercial driving permit which shall  
30 expire on the person's date of arraignment and shall cite the person for their  
31 refusal to submit to the test.

32 (e) The arresting officer shall remit the seized commercial driver  
33 license to the court, and upon arraignment, the judge shall issue that person  
34 a temporary commercial driving permit to expire on the date of trial.

35 (f) If the judge determines at trial that the officer had reasonable

