

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

4 By: Representative Mitchell

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 5-65-104(b) TO ALLOW A
9 COURT TO ORDER A PERSON WHO IS FOUND GUILTY OR PLEADS
10 GUILTY TO DRIVING WHILE INTOXICATED TO OPERATE A VEHICLE
11 EQUIPPED WITH A FUNCTIONING IGNITION INTERLOCK DEVICE; AND
12 FOR OTHER PURPOSES."

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Subtitle

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

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23 SECTION 1. Arkansas Code § 5-65-104(b) is amended to read as follows:

24 "(b)(1)(A) Any person who is found guilty or enters a plea of guilty
25 to an offense under this act may petition the Office of Driver Services that
26 he or she be issued a restricted operator's permit for employment-related
27 purposes, or to attend a state-required alcohol treatment or education
28 program, or, if the person is a full-time student, to attend classes at an
29 educational institution.

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31 (B) A person shall be ineligible to apply for a restricted
32 operator's permit if the offense occurred within three (3) years of a prior
33 offense under this act. *The court may order the person's motor vehicle be*
34 *equipped with a functioning ignition interlock device in accordance with § 5-*
35 *65-118. Once the requirements of § 5-65-118 have been met and certified by*
the court, the person may apply for a restricted operator's permit.

1 (C) A person who is convicted of an offense under this act
2 shall not be deemed ineligible to obtain a restricted operator's permit
3 because the person is appealing his or her conviction.

4 (2) The Office of Driver Services shall notify each such person
5 that he or she may request a restricted permit and shall advise the person of
6 the time and place for making such request and for the hearing thereon, which
7 shall be conducted within ten (10) days from the guilty plea or conviction.

8 (3) Such notice shall be given by mailing the notice to the last
9 known address of the person whose operator's license is suspended.

10 (4) Any previously issued temporary permit shall remain in
11 effect until the hearing date.

12 (5) Furthermore, the sentencing court may postpone acceptance of
13 a guilty plea or sentencing following a conviction until a determination of
14 the request for a restricted operator's permit has been made.

15 (6)(A) The restricted operator's permit may be issued if at such
16 hearing it is determined that based on the overall driving record the
17 issuance of a permit would not be detrimental to public safety and:

18 (i) The offender has no reasonable alternative mode
19 of transportation to and from his or her place of employment, or to a
20 state-required alcohol treatment or education program, or, if the person is a
21 full-time student, to and from an educational institution, or that driving of
22 a motor vehicle is an essential part of the offender's work; and

23 (ii) The offense did not occur within three (3)
24 years of a prior offense under this act, unless the court orders the person
25 to operate only a motor vehicle that has been equipped with a functioning
26 ignition interlock device in accordance with § 5-65-118 and the requirements
27 of § 5-65-118 have been met and certified by the court.

28 (B)(i) If the court has required an alcohol treatment or
29 education program that exceeds the length of the suspension under this
30 section, a restricted operator's permit may be issued for the purpose of
31 completing the required program.

32 (ii) Any person to whom such restricted permit has
33 been issued who shall operate a motor vehicle other than for the purposes and
34 under the conditions prescribed in the permit shall, upon conviction
35 therefor, be imprisoned for ten (10) days."

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SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Rep. Mitchell

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