

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/7/97

A Bill

HOUSE BILL 1906

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5 *By: Representatives Wooldridge, Magnus, and Hausam*

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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 5-65-105 TO AUTHORIZE THE
10 SEIZURE AND FORFEITURE OF MOTOR VEHICLES FOR PERSONS
11 CONVICTED OF DRIVING WHILE INTOXICATED ON SUSPENDED OR
12 REVOKED DRIVER LICENSES AFTER AN INITIAL DWI ARREST; AND
13 FOR OTHER PURPOSES."

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Subtitle

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

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24 SECTION 1. Arkansas Code § 5-65-105 is amended to read as follows:

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"5-65-105. Operation of motor vehicle during period of license
suspension or revocation - Operation while intoxicated - Penalty - Seizure and
forfeiture of motor vehicle.

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(a) Any person whose privilege to operate a motor vehicle has been
suspended or revoked under the provisions of this act, who shall, during the
period of such suspension or revocation, operate a motor vehicle in this
state, shall be imprisoned for ten (10) days.

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(b) Any person whose privilege to operate a motor vehicle has been
suspended or revoked under the provisions of this act, who shall, during the
period of such suspension or revocation, be arrested for and subsequently
pleads guilty or nolo contendere, or is found guilty of violating § 5-65-103
while under such suspension or revocation, may, at the discretion of the

1 court, have his motor vehicle seized, and title to the motor vehicle, if
2 seized, shall be forfeited to the state. And if his motor vehicle was
3 involved in an accident which resulted in bodily injury to another person not
4 in his vehicle or in damage to the motor vehicle or property of another
5 person, then his motor vehicle or any proceeds from its sale may, if ordered
6 forfeited by the court, be used to provide restitution to any or all of the
7 injured parties or property owners when ordered by the court.

8 (c) If ordered by the court, it shall be the duty of the sheriff of the
9 county in which the offense occurred to seize the motor vehicle. The court
10 shall have the discretion to issue an order directing the sheriff to sell the
11 motor vehicle seized, within thirty (30) days from the date of judgment, at
12 public auction to the highest bidder. The sheriff shall advertise the motor
13 vehicle for sale for a period of two (2) weeks prior to the date of sale by at
14 least one (1) insertion per week in a newspaper having a bona fide circulation
15 in the county. The notice shall include a brief description of the motor
16 vehicle to be sold, and the time, place, and terms of sale. A forfeiture of a
17 motor vehicle encumbered by a bona fide security interest is subject to the
18 interest of the secured party if he neither had knowledge of nor consented to
19 the act or omission. Further, the court may waive an ordered sale upon a
20 hardship motion by any member of the immediate family who would depend on the
21 motor vehicle for their transportation and where no other means of
22 transportation is otherwise available to the person.

23 (d) The proceeds of the sale of the forfeited motor vehicle shall be
24 deposited in the county treasury and moneys from the sale shall be distributed
25 in the following order:

26 (1) For satisfaction of any bona fide security interest or liens;
27 (2) For payment of all proper expenses of the forfeiture and sale;
28 (3) For payment of any restitution ordered by the court to any
29 injured party for his or her medical or other expenses from injuries or to any
30 owner whose property was damaged as result of the accident; and

31 (4) Any remainder shall be credited one-half (1/2) to the county
32 general fund of the county in which the offense occurred and one-half (1/2)
33 forwarded and deposited in the State Treasury to be credited to the Highway
34 Safety Special Fund, or its successor fund, for use to support the programs of
35 the Arkansas Highway Safety Program.

36 (e) After the sheriff has made the sale and has turned over the

1 proceeds of the sale to the county treasurer, he shall report his actions to
2 the court in which the defendant was tried. The report shall be filed with the
3 court within sixty (60) days from the date of judgment."
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5 SECTION 2. All provisions of this act of general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.
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9 SECTION 3. If any provisions of this act or the application thereof to
10 any person or circumstance is held invalid, the invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provisions or application, and to this end the provisions of this
13 act are declared to be severable.
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15 SECTION 4. All laws and parts of laws in conflict with this act are
16 hereby repealed.

17 /s/Rep. Wooldridge et al
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