

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: H2/5/01

# A Bill

HOUSE BILL 1122

5 By: Representative Magnus  
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## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 5-65-111 TO MAKE DRIVING  
10 WHILE INTOXICATED WITH A BREATH OR BLOOD ALCOHOL  
11 CONTENT OF *EIGHTEEN-HUNDREDTHS* OR MORE A FELONY; AND  
12 FOR OTHER PURPOSES.  
13

## Subtitle

14 AN ACT TO AMEND ARKANSAS CODE 5-65-111  
15 TO MAKE DRIVING WHILE INTOXICATED WITH A  
16 BREATH OR BLOOD ALCOHOL CONTENT OF  
17 *EIGHTEEN-HUNDREDTHS* OR MORE A FELONY.  
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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 5-65-111 is amended to read as follows:  
24 5-65-111. Prison terms - Exception.

25 (a) Any person who pleads guilty or nolo contendere to or is found  
26 guilty of violating § 5-65-103 may, for a first offense, be imprisoned for no  
27 less than twenty-four (24) hours and no more than one (1) year, except that  
28 the court may order public service in lieu of jail, and, in such instance, the  
29 court shall include the reasons therefor in its written order or judgment,  
30 unless subsection (c) applies.

31 (b) Any person who pleads guilty or nolo contendere to or is found  
32 guilty of violating § 5-65-103 or any other equivalent penal law of another  
33 state or foreign jurisdiction shall be imprisoned or shall be ordered to  
34 perform public service in lieu of jail as follows, unless subsection (c)  
35 applies:

36 (1) For no fewer than seven (7) days and no more than one (1)

1 year for the second offense occurring within five (5) years of the first  
2 offense or no fewer than thirty (30) days of community service;

3 (2) For no fewer than ninety (90) days and no more than one (1)  
4 year for the third offense occurring within five (5) years of the first  
5 offense or no fewer than ninety (90) days of community service; and

6 (3) For at least one (1) year but no more than six (6) years for  
7 the fourth or subsequent offense occurring within five (5) years of the first  
8 offense or not less than one (1) year of community service and shall be guilty  
9 of a felony.

10 (c)(1) Any person who pleads guilty or nolo contendere to or is found  
11 guilty of violating § 5-65-103, and who at the time of arrest for operating or  
12 being in actual physical control of a motor vehicle while intoxicated had an  
13 alcohol concentration of *eighteen-hundredths (0.18)* or more in the person's  
14 breath or blood, shall be guilty of a Class D felony and shall be subject to a  
15 term of imprisonment and fine as provided for under the law for Class D  
16 felonies in addition to all other penalties provided for under the Omnibus DWI  
17 Act.

18 (2) Any person who pleads guilty or nolo contendere to or is found  
19 guilty of violating § 5-65-103 and who at the time of arrest for operating or  
20 being in actual physical control of a motor vehicle while intoxicated had an  
21 alcohol concentration of *eighteen-hundredths (0.18)* or more in the person's  
22 breath or blood, a second or subsequent time, shall be guilty of a Class B  
23 felony and shall be subject to a term of imprisonment and fine as provided for  
24 under the law for Class B felonies in addition to all other penalties provided  
25 for under the Omnibus DWI Act.

26 ~~(e)~~(d) For all arrests or offenses occurring before July 30, 1999, but  
27 which have not reached a final disposition as to judgment in court, the  
28 offenses shall be decided under the law in effect at the time the offense  
29 occurred, and any defendant shall be subject to the penalty provisions in  
30 effect at that time and not under the provisions of this section.

31 /s/ Magnus  
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