

**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: H3/19/01 H4/2/01 H4/4/01*

# A Bill

HOUSE BILL 2455

5 By: Representatives Bennett, Glover, Milligan, M. Smith  
6 By: Senator Webb  
7  
8

## For An Act To Be Entitled

10 AN ACT TO AMEND ARKANSAS CODE 5-65-205 PERTAINING  
11 TO REFUSAL TO SUBMIT TO A CHEMICAL TEST; AND FOR  
12 OTHER PURPOSES.  
13

### Subtitle

14 TO AMEND ARKANSAS CODE 5-65-205  
15 PERTAINING TO REFUSAL TO SUBMIT TO A  
16 CHEMICAL TEST.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code 5-65-205 is amended to read as follows:  
23 5-65-205. Refusal to submit.

24 (a)(1) If a person under arrest refuses upon the request of a law  
25 enforcement officer to submit to a chemical test designated by the law  
26 enforcement agency, as provided in § 5-65-202, none shall be given, and the  
27 person's motor vehicle operator's license shall be seized by the law  
28 enforcement officer, and the officer shall immediately deliver to the person  
29 from whom the license was seized a temporary driving permit, as provided by  
30 §5-65-402.

31 (2) Refusal to submit to a chemical test designated by the law  
32 enforcement agency shall be an unclassified misdemeanor.

33 (b) The Office of Driver Services of the Department of Finance and  
34 Administration shall then proceed to suspend or revoke the driving privilege  
35 of the arrested person, as provided in § 5-65-402. The suspension shall be as  
36 follows:

1 (1) Suspension for one hundred eighty (180) days for the first  
2 offense of refusing to submit to a chemical test of blood, breath, or urine  
3 for the purpose of determining the alcohol or controlled substance contents  
4 of the person's blood.

5 (2) Suspension for two (2) years, during which no restricted  
6 permits may be issued, for a second offense of refusing to submit to a  
7 chemical test of blood, breath, or urine for the purposes of determining the  
8 alcohol or controlled substance contents of the person's blood within five  
9 (5) years of the first offense.

10 (3) Revocation for three (3) years, during which no restricted  
11 permits may be issued, for the third offense of refusing to submit to a  
12 chemical test of blood, breath, or urine for the purpose of determining the  
13 alcohol or controlled substance contents of the person's *blood within five*  
14 *(5) years of the first offense.*

15 (4) Lifetime revocation, during which no restricted permit may  
16 be issued, for the fourth or subsequent offense of refusing to submit to a  
17 chemical test of blood, breath, or urine for the purpose of determining the  
18 alcohol or controlled substance contents of the person's blood within five  
19 (5) years of the first offense.

20 (c) Any person who refuses upon the request of a law enforcement  
21 officer to submit to a chemical test designated by the law enforcement agency  
22 shall be fined:

23 (1) At least one hundred dollars (\$100.00) but not more than two  
24 hundred and fifty dollars (\$250.00) for the first refusal;

25 (2) At least two hundred and fifty dollars (\$250.00) but not  
26 more than five hundred dollars (\$500.00) for the second refusal occurring  
27 within five (5) years of the first refusal; and

28 (3) At least five hundred dollars (\$500.00) but not more than  
29 one thousand dollars (\$1,000) for the third or subsequent refusal occurring  
30 within five (5) years of the first refusal.

31 (d)(1) Any person who refuses upon the request of a law enforcement  
32 officer to submit to a chemical test designated by the law enforcement agency  
33 may, for a second offense, be imprisoned for at least eight (8) hours but not  
34 more than twenty-four (24) hours, except that the court may order public  
35 service in lieu of jail, and, in such instance, the court shall include the  
36 reasons therefor in its written order or judgment.

1           (2) Any person who refuses upon the request of a law enforcement  
2 officer to submit to a chemical test designated by the law enforcement agency  
3 shall be imprisoned:

4           (A) At least three (3) days but not more than five (5)  
5 days for the third offense occurring within *five (5)* years of the first  
6 offense;

7           (B) At least five (5) days but not more than ten (10) days  
8 for the fourth offense occurring within *five (5)* years of the first offense;

9           (C) At least ten (10) days but not more than twenty (20)  
10 days for the fifth or subsequent offense occurring within *five (5)* years of  
11 the first offense.

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

17       ~~(d)~~(f) In order to determine the number of previous offenses to  
18 consider when suspending or revoking the arrested person's driving  
19 privileges, the Office of Driver Services shall consider as a previous  
20 offense:

21           (1) Any conviction for offenses of operating or being in actual  
22 physical control of a motor vehicle while intoxicated or in violation of § 5-  
23 65-103 or refusing to submit to a chemical test which occurred prior to July  
24 1, 1996; and

25           (2) Any suspension or revocation of driving privileges for  
26 arrests for a violation of § 5-65-103 or violation of § 5-65-205(a) occurring  
27 on or after July 1, 1996, where the person was subsequently convicted of the  
28 criminal charges.

29       ~~(e)~~(g) If the person is a resident without a license or permit to  
30 operate a motor vehicle in this state, the Office of Driver Services shall,  
31 in addition to any other penalties provided for in this section, deny to that  
32 person the issuance of a license or permit for a period of six (6) months for  
33 a first offense. For a second or subsequent offense by a resident without a  
34 license or permit to operate a motor vehicle, the Office of Driver Services  
35 shall, in addition to any other penalties provided for in this section, deny  
36 to that person the issuance of a license or permit for a period of one (1)

1 year.

*/s/ Bennett, et al.*

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