

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 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2041

4  
5 By: Representative Childers

## For An Act To Be Entitled

9 AN ACT TO REQUIRE COMPLETION OF AN ALCOHOL  
10 EDUCATION PROGRAM FOR EACH VIOLATION INVOLVING  
11 THE OFFENSE OF DRIVING WHILE INTOXICATED; TO  
12 INCREASE THE ALLOWABLE FEE FOR ALCOHOL EDUCATION  
13 PROGRAMS; TO AUTHORIZE PROBATION FEES IN CERTAIN  
14 CASES; AND FOR OTHER PURPOSES.

## Subtitle

16 AN ACT TO REQUIRE COMPLETION OF ALCOHOL  
17 EDUCATION PROGRAMS; TO ALLOW AN INCREASE  
18 IN PROGRAM FEES; AND TO AUTHORIZE  
19 PROBATION FEES IN CERTAIN CASES.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code § 5-65-104(b), pertaining to alcohol  
26 education programs, is amended to read as follows:

27 (b)(1)(A) Any person whose license is suspended or revoked pursuant to  
28 this section shall be required to complete an alcohol education program as  
29 prescribed and approved by the Highway Safety Program or an alcohol treatment  
30 program as approved by the Bureau of Alcohol and Drug Abuse Prevention of the  
31 Department of Health, unless the charges are dismissed or the person is  
32 acquitted of the charges upon which the suspension or revocation is based.

33 (B) If during the period of suspension or revocation under  
34 subdivision (b)(1)(A) of this section the person commits additional  
35 violations of § 5-65-103, the person shall also be required to complete an  
36 approved alcohol education program or alcohol treatment program for each



1 additional violation, unless the additional charges are dismissed or the  
 2 person is acquitted of the additional charges.

3 (2) A person whose license is suspended or revoked pursuant to  
 4 this section shall furnish proof of attendance at, and completion of, the  
 5 alcoholism treatment or education program or programs required under  
 6 subdivision (b)(1) of this section before reinstatement of his or her  
 7 suspended or revoked driver's license or shall furnish proof of dismissal or  
 8 acquittal of the charge on which the suspension or revocation is based.

9 (3) Even if a person has filed a de novo petition for review  
 10 pursuant to former subsection (c) of this section, the person shall be  
 11 entitled to reinstatement of driving privileges upon complying with this  
 12 subsection and shall not be required to postpone reinstatement until the  
 13 disposition of the de novo review in circuit court has occurred.

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 15 SECTION 2. Arkansas Code § 5-65-108 is amended to read as follows:  
 16 5-65-108. No probation prior to adjudication of guilt.

17 (a) Section 16-93-301 et seq. allows judges of circuit and ~~municipal~~  
 18 district courts to place on probation first offenders who plead guilty or  
 19 nolo contendere prior to an adjudication of guilt.

20 (b) Upon successful completion of the probation terms, the judge is  
 21 allowed to discharge the accused without a court adjudication of guilt and  
 22 expunge the record.

23 (c)(1) Hereafter, no circuit judge or ~~municipal~~ district judge may  
 24 utilize the provisions of § 16-93-301 et seq. in instances where the  
 25 defendant is charged with violating § 5-65-103.

26 (2) Notwithstanding the provisions of § 5-4-301, § 5-4-322, or  
 27 subdivision (c)(1) of this section, in addition to the mandatory penalties  
 28 required for a violation of § 5-65-103 a circuit judge or district judge may  
 29 utilize probationary supervision solely for the purpose of monitoring  
 30 compliance with his or her orders.

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 32 SECTION 3. Arkansas Code § 5-65-115 is amended to read as follows:  
 33 5-65-115. Alcohol treatment or education program – Fee.

34 (a)(1) Any person whose driving privileges are suspended or revoked  
 35 for violating § 5-65-103 shall be required to complete an alcohol education  
 36 program as prescribed and approved by the Highway Safety Program or an

1 alcoholism treatment program as approved by the Bureau of Alcohol and Drug  
 2 Abuse Prevention of the Department of Health or programs required under § 5-  
 3 65-104(b)(1), in addition to other penalties provided by law.

4 (2)(A) The alcoholism education program may collect a program  
 5 fee of up to ~~seventy five dollars (\$75.00)~~ one hundred twenty-five dollars  
 6 (\$125) per enrollee to offset program costs.

7 (B)(i) A person ordered to complete an alcoholism  
 8 education program or alcoholism treatment program under this section may be  
 9 required to pay, in addition to the costs collected for education or  
 10 treatment, a fee of up to twenty-five dollars (\$25.00) to offset the  
 11 additional costs associated with reporting requirements under this  
 12 subchapter.

13 (ii) The alcoholism education program shall report  
 14 semiannually to the Highway Safety Program all revenue derived from this fee.

15 (b)(1) A person whose license is suspended or revoked for violating §  
 16 5-65-103 shall:

17 (A)(i) Furnish proof of attendance at and completion of  
 18 the alcoholism treatment or education program or programs required under § 5-  
 19 65-104(b)(1) before reinstatement of his or her suspended or revoked driver's  
 20 license; and

21 (ii) Pay any fee for reinstatement required under §  
 22 5-65-119 or § 5-65-304; or

23 (B) Furnish proof of dismissal or acquittal of the charge  
 24 on which the suspension or revocation is based.

25 (2) An application for reinstatement shall be made to the Office  
 26 of Driver Services of the Department of Finance and Administration.

27 (c) Even if a person has filed a de novo petition for review pursuant  
 28 to § 5-65-402, the person shall be entitled to reinstatement of driving  
 29 privileges upon complying with this section and shall not be required to  
 30 postpone reinstatement until the disposition of the de novo review in circuit  
 31 court has occurred.

32 (d) A person suspended under this act may enroll in an alcohol  
 33 education program prior to disposition of the offense by the ~~municipal~~  
 34 district court or circuit court but shall not be entitled to any refund of  
 35 fees paid if the charges are dismissed or if the person is acquitted of the  
 36 charges.

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SECTION 4. Arkansas Code § 5-65-307 is amended to read as follows:  
5-65-307. Alcohol and driving education program.

(a)(1)(A) Any underage person who has his or her driving privileges suspended, revoked, or denied for violating § 5-65-303 shall be required to complete an alcohol and driving education program for underage drivers as prescribed and approved by the Highway Safety Program or an alcoholism treatment program, or both, in addition to other penalties provided in this chapter.

(B) If during the period of suspension or revocation in subdivision (a)(1)(A) of this section the person commits additional violations of § 5-65-303, the person shall also be required to complete an approved alcohol and driving education program or alcoholism treatment program for each additional violation.

(2) The Highway Safety Program shall approve only those programs in alcohol and driving education which are targeted at the underage driving group and are intended to intervene and prevent repeat occurrences of driving under the influence or driving while intoxicated.

(3)(A)(i) The alcohol and driving education program may collect a program fee of up to ~~seventy five dollars (\$75.00)~~ one hundred twenty-five dollars (\$125) per enrollee to offset program costs.

(ii) A person ordered to complete an alcohol and driving education program or an alcoholism treatment program under this section may be required to pay, in addition to the costs collected for the program, a fee of up to twenty-five dollars (\$25.00) to offset the additional costs associated with reporting requirements under this subchapter.

(B) An approved alcohol and driving education program shall report semiannually to the Highway Safety Program all revenue derived from these fees.

(b) Prior to reinstatement of a driver's license suspended or revoked under this subchapter, the driver shall furnish proof of attendance at and completion of the alcohol and driving education program or programs required under subdivision (a)(1) of this section.

(c) The Highway Safety Program is authorized to promulgate rules and regulations reasonably necessary to carry out the purposes of this section regarding the approval and monitoring of the alcohol and driving education

1 programs.

2 (d)(1)(A) A person whose license is suspended or revoked for violating  
 3 § 5-65-303 or § 5-65-310 shall:

4 (i)(a) Furnish proof of attendance at and completion  
 5 of the alcoholism treatment or education program or programs required under  
 6 subdivision (a)(1) of this section before reinstatement of his or her  
 7 suspended or revoked driver's license; and

8 (b) Pay any fee for reinstatement required  
 9 under § 5-65-119 or § 5-65-304; or

10 (ii) Furnish proof of dismissal or acquittal of the  
 11 charge on which the suspension, or revocation is based.

12 (B) An application for reinstatement shall be made to the  
 13 Office of Driver Services.

14 (2) Even if a person has filed a de novo petition for review  
 15 pursuant to § 5-65-402, the person shall be entitled to reinstatement of  
 16 driving privileges upon complying with this subsection and shall not be  
 17 required to postpone reinstatement until the disposition of the de novo  
 18 review in circuit court has occurred.

19 (3)(A) A person suspended under this chapter may enroll in an  
 20 alcohol education program prior to disposition of the offense by the  
 21 municipal or circuit court but shall not be entitled to any refund of fees  
 22 paid if the charges are dismissed or if the person is acquitted of the  
 23 charges.

24 (B) A person who enrolls in an alcohol education program  
 25 shall not be entitled to any refund of fees paid if the person is  
 26 subsequently acquitted.

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28 SECTION 5. Arkansas Code § 5-65-308(a), pertaining to probation in  
 29 cases involving underage driving under the influence, is amended to read as  
 30 follows:

31 (a)(1) Section 16-93-301 et seq. allows judges of circuit and  
 32 ~~municipal~~ district courts to place on probation first offenders who plead  
 33 guilty or nolo contendere prior to an adjudication of guilt, and, upon  
 34 successful completion of probation, the judge may discharge the accused  
 35 without a court adjudication of guilt and expunge the record.

36 (2)(A) No circuit judge or ~~municipal~~ district judge may utilize

1 the provisions of § 16-93-301 et seq. in instances where an underage person  
2 is charged with violating § 5-65-303.

3 (B) Notwithstanding the provisions of § 5-4-301, § 5-4-  
4 322, or subdivision (a)(2)(A) of this section, in addition to the mandatory  
5 penalties required for a violation of § 5-65-303 a circuit judge or district  
6 judge may utilize probationary supervision solely for the purpose of  
7 monitoring compliance with his or her orders.

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9 SECTION 6. Arkansas Code § 5-65-402(h), pertaining to reinstatement of  
10 administratively suspended driver’s licenses, is amended to read as follows:

11 (h)(1)(A) A person whose license is suspended or revoked pursuant to  
12 this section shall:

13 (i)(a) Furnish proof of attendance at and completion  
14 of the alcoholism treatment or education program or programs required by § 5-  
15 65-104(b)(1) or § 5-65-307(a)(1) before reinstatement of his or her suspended  
16 or revoked driver’s license; and

17 (b) Pay any fee for reinstatement required  
18 under § 5-65-119 or § 5-65-304; or

19 (ii) Furnish proof of dismissal or acquittal of the  
20 charge on which the suspension or revocation is based.

21 (B) An application for reinstatement shall be made to the  
22 Office of Driver Services.

23 (2) Even if a person has filed a de novo petition for review  
24 pursuant to subsection (c) of this section, the person shall be entitled to  
25 reinstatement of driving privileges upon complying with this subsection and  
26 shall not be required to postpone reinstatement until the disposition of the  
27 de novo review in circuit court has occurred.

28 (3) A person suspended under this section may enroll in an  
29 alcohol education program prior to disposition of the offense by the  
30 municipal or circuit court but shall not be entitled to any refund of fees  
31 paid if the charges are dismissed or if the person is acquitted of the  
32 charges.

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