

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
4

As Engrossed: H3/2/05
A Bill

HOUSE BILL 2041

5 By: Representative Childers
6
7

8 **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.
15

16 **Subtitle**

17 AN ACT TO REQUIRE COMPLETION OF ALCOHOL
18 EDUCATION PROGRAMS; TO ALLOW AN INCREASE
19 IN PROGRAM FEES; AND TO AUTHORIZE
20 PROBATION FEES IN CERTAIN CASES.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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~~ Human Services, unless the charges are dismissed or the*
32 *person is acquitted of the charges upon which the suspension or revocation is*
33 *based.*

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



1 approved alcohol education program or alcohol treatment program for each
2 additional violation, unless the additional charges are dismissed or the
3 person is acquitted of the additional charges.

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

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

15
16 SECTION 2. Arkansas Code § 5-65-108 is amended to read as follows:
17 5-65-108. No probation prior to adjudication of guilt.

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

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

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

27 (2) Notwithstanding the provisions of § 5-4-301, § 5-4-322, or
28 subdivision (c)(1) of this section, in addition to the mandatory penalties
29 required for a violation of § 5-65-103 a circuit judge or district judge may
30 utilize probationary supervision solely for the purpose of monitoring
31 compliance with his or her orders, and require an offender to pay a
32 reasonable fee in an amount to be established by the judge.

33 SECTION 3. Arkansas Code § 5-65-115 is amended to read as follows:
34 5-65-115. Alcohol treatment or education program – Fee.

35 (a)(1) Any person whose driving privileges are suspended or revoked
36 for violating § 5-65-103 shall be required to complete an alcohol education

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

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

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

15 (ii) The alcoholism education program shall report
16 semiannually to the ~~Highway Safety Program~~ Bureau of Alcohol and Drug Abuse
17 Prevention of the Department of Human Services all revenue derived from this
18 fee.

19 (b)(1) A person whose license is suspended or revoked for violating §
20 5-65-103 shall:

21 (A)(i) Furnish proof of attendance at and completion of
22 the alcoholism treatment or education program or programs required under § 5-
23 65-104(b)(1) before reinstatement of his or her suspended or revoked driver's
24 license; and

25 (ii) Pay any fee for reinstatement required under §
26 5-65-119 or § 5-65-304; or

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

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

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

36 (d) A person suspended under this act may enroll in an alcohol

1 education program prior to disposition of the offense by the ~~municipal~~
2 district court or circuit court but shall not be entitled to any refund of
3 fees paid if the charges are dismissed or if the person is acquitted of the
4 charges.

5 (e) Each alcohol education or treatment program shall remit the fees
6 imposed under this section to the Bureau of Alcohol and Drug Abuse Prevention
7 of the Department of Human Services.

8
9 SECTION 4. Arkansas Code § 5-65-307 is amended to read as follows:

10 5-65-307. Alcohol and driving education program.

11 (a)(1)(A) Any underage person who has his or her driving privileges
12 suspended, revoked, or denied for violating § 5-65-303 shall be required to
13 complete an alcohol and driving education program for underage drivers as
14 prescribed and approved by the ~~Highway Safety Program~~ Bureau of Alcohol and
15 Drug Abuse Prevention of the Department of Human Services or an alcoholism
16 treatment program, or both, in addition to other penalties provided in this
17 chapter.

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

23 (2) The ~~Highway Safety Program~~ Bureau of Alcohol and Drug Abuse
24 Prevention of the Department of Human Services shall approve only those
25 programs in alcohol and driving education which are targeted at the underage
26 driving group and are intended to intervene and prevent repeat occurrences of
27 driving under the influence or driving while intoxicated.

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

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

36 (B) An approved alcohol and driving education program

1 shall report semiannually to the ~~Highway Safety Program~~ Bureau of Alcohol and
2 Drug Abuse Prevention of the Department of Human Services all revenue derived
3 from these fees.

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

8 (c) ~~The Highway Safety Program~~ Bureau of Alcohol and Drug Abuse
9 Prevention of the Department of Human Services is authorized to promulgate
10 rules and regulations reasonably necessary to carry out the purposes of this
11 section regarding the approval and monitoring of the alcohol and driving
12 education programs.

13 (d)(1)(A) A person whose license is suspended or revoked for violating
14 § 5-65-303 or § 5-65-310 shall:

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

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

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

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

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

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

35 (B) A person who enrolls in an alcohol education program
36 shall not be entitled to any refund of fees paid if the person is

1 *subsequently acquitted.*

2 *(e) Each alcohol education or treatment program shall remit the fees*
3 *imposed under this section to the Bureau of Alcohol and Drug Abuse Prevention*
4 *of the Department of Human Services.*

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

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

14 (2)(A) No circuit judge or ~~municipal~~ district judge may utilize
15 the provisions of § 16-93-301 et seq. in instances where an underage person
16 is charged with violating § 5-65-303.

17 (B) Notwithstanding the provisions of § 5-4-301, § 5-4-
18 322, or subdivision (a)(2)(A) of this section, in addition to the mandatory
19 penalties required for a violation of § 5-65-303 a circuit judge or district
20 judge may utilize probationary supervision solely for the purpose of
21 monitoring compliance with his or her orders, and require an offender to pay
22 a reasonable fee in an amount to be established by the judge.

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

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

27 (i)(a) Furnish proof of attendance at and completion
28 of the alcoholism treatment or education program or programs required by § 5-
29 65-104(b)(1) or § 5-65-307(a)(1) before reinstatement of his or her suspended
30 or revoked driver's license; and

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

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

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

