

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 H3/4/05 S3/29/05

# A Bill

HOUSE BILL 2041

5 By: Representative Childers  
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## 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

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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*~~ *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.

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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, district, and*  
19 *city and municipal* courts to place on probation first offenders who plead  
20 guilty or 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, district, or city judge or municipal*  
25 *judge* may utilize the provisions of § 16-93-301 et seq. in instances where  
26 the 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, district, or city 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 court~~  
2 ~~or circuit, district, or city court~~ but shall not be entitled to any refund  
3 of fees paid if the charges are dismissed or if the person is acquitted of  
4 the 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.

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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, district, or city~~ court but shall not be entitled to  
33 any refund of fees paid if the charges are dismissed or if the person is  
34 acquitted of the 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, district,*  
10 *and city municipal* 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, district, or city judge* ~~*or municipal judge*~~  
15 may utilize the provisions of § 16-93-301 et seq. in instances where an  
16 underage person 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, district, or city*  
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.

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

6 (3) A person suspended under this section may enroll in an  
7 alcohol education program prior to disposition of the offense by the  
8 ~~municipal or circuit, district, or city~~ court but shall not be entitled to  
9 any refund of fees paid if the charges are dismissed or if the person is  
10 acquitted of the charges.

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/s/ Childers