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 2	State of Arkansas 85th General Assembly	A Bill		
2	Regular Session, 2005		HOUSE BILL	2008
4	Regular Session, 2005		HOUSE DILL	2070
4 5	By: Representative Borhau	er		
6	Dy: Representative Domaa			
7				
8		For An Act To Be Entitled		
9	AN ACT	TO ENHANCE PENALTIES FOR DRIVING WHILE	2	
10	INTOXI	CATED WITH A PERSON UNDER SIXTEEN (16)		
11	YEARS	OF AGE IN THE VEHICLE; AND FOR OTHER		
12	PURPOS	ES.		
13				
14		Subtitle		
15	AN .	ACT TO ENHANCE PENALTIES FOR DRIVING		
16	WHI	LE INTOXICATED WITH A PERSON UNDER		
17	SIX	TEEN (16) YEARS OF AGE IN THE		
18	VEH	ICLE.		
19				
20				
21	BE IT ENACTED BY THE	GENERAL ASSEMBLY OF THE STATE OF ARKAN	SAS:	
22				
23	SECTION 1. Arl	kansas Code § 5-65-111 is amended to re	ad as follows:	
24	5-65-111. Pris	son terms - Exception.		
25	(a)(l) Any per	rson who pleads guilty or nolo contende	re to, or is f	ound
26	guilty of, violating	§ 5-65-103, for a first offense, may b	e imprisoned f	or
27	no less than twenty-i	four (24) hours and no more than one (1) year, except	
28	that the court may or	rder public service in lieu of jail, an	d in that	
29	instance, the court s	shall include the reasons therefor in i	ts written ord	er
30	or judgment.			
31	(2) Howe	ever, if a passenger under sixteen (16)	years of age	was
32	in the vehicle at the	e time of the offense, a person who ple	ads guilty or	nolo
33	contendere to, or is	found guilty of, violating § 5-65-103,	for a first	
34	offense, may be impri	isoned for no fewer than seven (7) days	and no more t	han
35		that the court may order public servic	-	
36	and in that instance,	, the court shall include the reasons t	herefor in its	



1 written order or judgment. 2 (b) Any person who pleads guilty or nolo contendere to, or is found 3 guilty of, violating § 5-65-103 or any other equivalent penal law of another 4 state or foreign jurisdiction shall be imprisoned or shall be ordered to 5 perform public service in lieu of jail as follows: 6 (1)(A) For no fewer than seven (7) days but no more than one (1) 7 year for the second offense occurring within five (5) years of the first 8 offense or no fewer than thirty (30) days of community service. 9 (B)(i) However, if a person under sixteen (16) years of 10 age was in the vehicle at the time of the offense, for no fewer than thirty 11 (30) days but no more than one (1) year for the second offense occurring 12 within five (5) years of the first offense or no fewer than sixty (60) days 13 of community service. 14 (ii) If the court orders community service, the 15 court shall clearly set forth in written findings the reasons for the order 16 of community service; 17 (2)(A) For no fewer than ninety (90) days but no more than one (1) year for the third offense occurring within five (5) years of the first 18 19 offense or no fewer than ninety (90) days of community service. 20 (B)(i) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for no fewer than one 21 22 hundred twenty days (120) days but no more than one (1) year for the third 23 offense occurring within five (5) years of the first offense or no fewer than 24 one hundred twenty (120) days of community service. 25 (ii) If the court orders community service, the 26 court shall clearly set forth in written findings the reasons for the order 27 of community service; 28 (3)(A) For at least one (1) year but no more than six (6) years 29 for the fourth offense occurring within five (5) years of the first offense 30 or not less than one (1) year of community service and shall be guilty of a 31 felony. 32 (B)(i) However, if a person under sixteen (16) years of 33 age was in the vehicle at the time of the offense, for at least two (2) years 34 but no more than six (6) years for the fourth offense occurring within five (5) years of the first offense or not less than two (2) years of community 35

36 service and shall be guilty of a felony.

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1 (ii) If the court orders community service, the 2 court shall clearly set forth in written findings the reasons for the order 3 of community service; and 4 (4)(A)(i) For at least two (2) years but no more than ten (10) 5 years for the fifth or subsequent offense occurring within five (5) years of 6 the first offense or not less than two (2) years of community service and 7 shall be guilty of a felony. 8 (ii) If the court orders community service, the 9 court shall clearly set forth in written findings the reasons for the order 10 of community service. 11 (B)(i) However, if a person under sixteen (16) years of 12 age was in the vehicle at the time of the offense, for at least three (3) years but no more than ten (10) years for the fifth offense occurring within 13 14 five (5) years of the first offense or not less than three (3) years of 15 community service and shall be guilty of a felony. 16 (ii) If the court orders community service, the 17 court shall clearly set forth in written findings the reasons for the order 18 of community service. 19 (c) For all arrests or offenses occurring before July 30, 1999 September 1, 2005, but which have not reached a final disposition as to 20 21 judgment in court, the offenses shall be decided under the law in effect at 22 the time the offense occurred, and any defendant shall be subject to the 23 penalty provisions in effect at that time and not under the provisions of 24 this section. 25 (d) It is an affirmative defense to prosecution under subdivisions 26 (a)(2), (b)(1)(B), (b)(2)(B), (b)(3)(B), and (b)(4)(B) of this section that 27 the person operating or in actual physical control of the motor vehicle was 28 not more than two (2) years older than the passenger. 29 30 31 32 33 34 35 36

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