

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

SENATE BILL 458

4  
5 By: Senator T. Smith  
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## For An Act To Be Entitled

8  
9 AN ACT TO CREATE A CRIMINAL OFFENSE PROHIBITING  
10 THE OPERATION OF A MOTORBOAT BY AN UNDERAGE  
11 PERSON WHILE INTOXICATED; AND FOR OTHER PURPOSES.  
12

## Subtitle

13  
14 AN ACT TO CREATE A CRIMINAL OFFENSE  
15 PROHIBITING THE OPERATION OF A MOTORBOAT  
16 BY AN UNDERAGE PERSON WHILE INTOXICATED.  
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 5-76-101 is amended to read as follows:

22 5-76-101. Definitions.

23 As used in this chapter:

24 (1) "Controlled substance" means a drug, substance, or immediate  
25 precursor in Schedules I-VI of the Uniform Controlled Substances Act, § 5-64-  
26 101 et seq.;

27 (2) "Intoxicated" means influenced or affected by the ingestion  
28 of alcohol, a controlled substance, any intoxicant, or any combination  
29 thereof, to such a degree that the operator's reactions, motor skills, and  
30 judgment are substantially altered and the operator, therefore, constitutes a  
31 clear and substantial danger of physical injury or death to himself or  
32 others;

33 (3) "Motorboat" means any vessel operated upon water and which  
34 is propelled by machinery, whether or not the machinery is the principal  
35 source of propulsion;

36 (4) "Operator" means a person who is controlling the speed and



1 direction of a motorboat or a person who is in direct physical control of the  
 2 motorboat; ~~and~~

3 (5) "Underage" means any person who is under the age of twenty-  
 4 one (21) years old and therefore may not legally consume alcoholic beverages  
 5 in Arkansas; and

6 ~~(5)(6)~~ "Waters" means any public waters within the territorial  
 7 limits of the State of Arkansas.

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 9 SECTION 2. Arkansas Code Title 5, Chapter 76, Subchapter 1 is amended  
 10 to add additional sections to read as follows:

11 5-76-107. Unlawful acts by underage operator.

12 (a) No underage person shall operate any motorboat on the waters of  
 13 this state while:

14 (1) Intoxicated; or

15 (2) There is an alcohol concentration in the underage person's  
 16 breath or blood of two-hundredths (0.02) but less than eight-hundredths  
 17 (0.08) based upon the definition of breath, blood, and urine concentration in  
 18 § 5-65-204.

19 (b)(1) A certified law enforcement officer may test the underage  
 20 operator of a motorboat using a portable breath-testing instrument or other  
 21 approved method to determine if the underage operator may be operating a  
 22 motorboat or device in violation of this section only if the officer has  
 23 probable cause to believe that:

24 (A) The underage person is operating the motorboat while  
 25 intoxicated; or

26 (B) The underage person is operating the motorboat while  
 27 there is an alcohol concentration of two-hundredths (0.02) but less than  
 28 eight-hundredths (0.08) in the underage person's breath or blood.

29 (2) The consumption of alcohol or the possession of an open  
 30 container of an alcoholic beverage aboard a vessel shall not alone constitute  
 31 probable cause.

32  
 33 5-76-108. Fines.

34 (a) Any person who pleads guilty or nolo contendere to or is found  
 35 guilty of violating § 5-76-107 shall be fined:

36 (1) No less than one hundred dollars (\$100) and not more than

1 five hundred dollars (\$500) for the first offense;

2 (2) No less than two hundred dollars (\$200) and not more than  
3 one thousand dollars (\$1,000) for the second offense; and

4 (3) No less than five hundred dollars (\$500) and not more than  
5 two thousand dollars (\$2,000) for the third or subsequent offense.

6 (b) For the purpose of determining the amount of a fine under this  
7 section, an underage person who has one (1) or more previous convictions for  
8 a violation of § 5-76-102 shall be deemed to have a conviction for a  
9 violation of § 5-76-107 for each conviction for a violation of § 5-76-102.

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