

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 87th General Assembly
3 Regular Session, 2009
4
5 By: Representative Nix
6
7

A Bill

HOUSE BILL 1459

For An Act To Be Entitled

9 AN ACT TO INCREASE THE "LOOK BACK" PERIOD FOR
10 REPEAT DWI OFFENDERS FROM FIVE YEARS TO TEN
11 YEARS; AND FOR OTHER PURPOSES.

Subtitle

14 AN ACT TO INCREASE THE "LOOK BACK"
15 PERIOD FOR REPEAT DWI OFFENDERS FROM
16 FIVE YEARS TO TEN YEARS.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 SECTION 1. Arkansas Code 5-65-111 and 5-65-112 are amended to read as
22 follows:

23 5-65-111. Prison terms – Exception.

24 (a)(1)(A) Any person who pleads guilty or nolo contendere to or is
25 found guilty of violating § 5-65-103, for a first offense, is guilty of an
26 unclassified misdemeanor and may be imprisoned for no less than twenty-four
27 (24) hours and no more than one (1) year.

28 (B) However, the court may order public service in lieu of
29 ~~jail~~ imprisonment, and in that instance, the court shall include the reasons
30 for the order of public service in lieu of jail in the court's written order
31 or judgment.

32 (2)(A) However, if a passenger under sixteen (16) years of age
33 was in the motor vehicle at the time of the offense, a person who pleads
34 guilty or nolo contendere to or is found guilty of violating § 5-65-103, for
35 a first offense, is guilty of an unclassified misdemeanor and may be
36 imprisoned for no fewer than seven (7) days and no more than one (1) year.



1 (B) However, the court may order public service in lieu of
 2 ~~jail imprisonment~~, and in that instance, the court shall include the reasons
 3 for the order of public service in lieu of ~~jail imprisonment~~ in the court's
 4 written order or judgment.

5 (b) Any person who pleads guilty or nolo contendere to or is found
 6 guilty of violating § 5-65-103 or any other equivalent penal law of another
 7 state or foreign jurisdiction shall be imprisoned or shall be ordered to
 8 perform public service in lieu of ~~jail imprisonment~~ as follows:

9 (1)(A) For no fewer than seven (7) days but no more than one (1)
 10 year for the second offense ~~occurring within five (5) years of the first~~
 11 ~~offense~~ or no fewer than thirty (30) days of community service.

12 (B)(i) However, if a person under sixteen (16) years of
 13 age was in the motor vehicle at the time of the offense, for no fewer than
 14 thirty (30) days but no more than one (1) year for the second offense
 15 occurring within ~~five (5)~~ ten (10) years of the first offense or no fewer
 16 than sixty (60) days of community service and the person is guilty of an
 17 unclassified misdemeanor.

18 (ii) If the court orders community service, the
 19 court shall clearly set forth in written findings the reasons for the order
 20 of community service;

21 (2)(A) For no fewer than ninety (90) days but no more than one
 22 (1) year for the third offense occurring within ~~five (5)~~ ten (10) years of
 23 the first offense or no fewer than ninety (90) days of community service and
 24 the person is guilty of an unclassified misdemeanor.

25 (B)(i) However, if a person under sixteen (16) years of
 26 age was in the motor vehicle at the time of the offense, for no fewer than
 27 one hundred twenty days (120) days but no more than one (1) year for the
 28 third offense occurring within ~~five (5)~~ ten (10) years of the first offense
 29 or no fewer than one hundred twenty (120) days of community service and the
 30 person is guilty of an unclassified misdemeanor.

31 (ii) If the court orders community service, the
 32 court shall clearly set forth in written findings the reasons for the order
 33 of community service;

34 (3)(A) For at least one (1) year but no more than six (6) years
 35 for the fourth offense occurring within ~~five (5)~~ ten (10) years of the first
 36 offense or not less than one (1) year of community service and the person is

1 guilty of a an unclassified felony.

2 (B)(i) However, if a person under sixteen (16) years of
 3 age was in the motor vehicle at the time of the offense, for at least two (2)
 4 years but no more than six (6) years for the fourth offense occurring within
 5 ~~five (5)~~ ten (10) years of the first offense or not less than two (2) years
 6 of community service and the person is guilty of a an unclassified felony.

7 (ii) If the court orders community service, the
 8 court shall clearly set forth in written findings the reasons for the order
 9 of community service; and

10 (4)(A)(i) For at least two (2) years but no more than ten (10)
 11 years for the fifth or subsequent offense occurring within ~~five (5)~~ ten (10)
 12 years of the first offense or not less than two (2) years of community
 13 service and the person is guilty of a an unclassified felony.

14 (ii) If the court orders community service, the court
 15 shall clearly set forth in written findings the reasons for the order of
 16 community service.

17 (B)(i) However, if a person under sixteen (16) years of
 18 age was in the motor vehicle at the time of the offense, for at least three
 19 (3) years but no more than ten (10) years for the fifth offense occurring
 20 within ~~five (5)~~ ten (10) of the first offense or not less than three (3)
 21 years of community service and is guilty of a an unclassified felony.

22 (ii) If the court orders community service, the
 23 court shall clearly set forth in written findings the reasons for the order
 24 of community service.

25 (c) For any arrest or offense occurring before ~~July 30, 1999~~, the
 26 effective date of this act, but that has not reached a final disposition as
 27 to judgment in court, the offense shall be decided under the law in effect at
 28 the time the offense occurred, and any defendant is subject to the penalty
 29 provisions in effect at that time and not under the provisions of this
 30 section.

31 (d) It is an affirmative defense to prosecution under subdivisions
 32 (a)(2), (b)(1)(B), (b)(2)(B), (b)(3)(B), and (b)(4)(B) of this section that
 33 the person operating or in actual physical control of the motor vehicle was
 34 not more than two (2) years older than the passenger.

35
 36 5-65-112. Fines.

1 (a) Any person who pleads guilty or nolo contendere to or is found
2 guilty of violating § 5-65-103 shall be fined:

3 (1) No less than one hundred fifty dollars (\$150) and no more
4 than one thousand dollars (\$1,000) for the first offense;

5 (2) No less than four hundred dollars (\$400) and no more than
6 three thousand dollars (\$3,000) for the second offense occurring within ~~five~~
7 ~~(5)~~ ten (10) years of the first offense; and

8 (3) No less than nine hundred dollars (\$900) and no more than
9 five thousand dollars (\$5,000) for the third or subsequent offense occurring
10 within ~~five (5)~~ ten (10) years of the first offense.

11 (b) For any arrest or offense occurring before the effective date of
12 this act, but that has not reached a final disposition as to judgment in
13 court, the offense shall be decided under the law in effect at the time the
14 offense occurred, and any defendant is subject to the penalty provisions in
15 effect at that time and not under the provisions of this section.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36