

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

A Bill

HOUSE BILL 1640

4
5 By: Representatives Hawkins, Pierce
6
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE THAT PERSONS ARRESTED FOR A
10 FIRST OFFENSE DWI ARE NOT ENTITLED TO A
11 RESTRICTED PERMIT BUT ARE ALLOWED AN IGNITION
12 INTERLOCK RESTRICTED LICENSE; TO INCREASE
13 SUSPENSION TIME FOR A FIRST OFFENSE DWI; TO
14 REDUCE INELIGIBILITY TIME FOR AN IGNITION
15 INTERLOCK RESTRICTED LICENSE FOR CERTAIN DWI
16 OFFENSES; AND FOR OTHER PURPOSES.

Subtitle

18 AN ACT REGARDING THE ISSUANCE OF
19 IGNITION INTERLOCK RESTRICTED LICENSES.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 5-65-104(a), concerning the issuance of
26 temporary driving permits for DWI offenders, is amended to read as follows:

27 (a)(1) At the time of arrest for operating or being in actual physical
28 control of a motor vehicle while intoxicated, or while there was an alcohol
29 concentration of eight-hundredths (0.08) or more in the person's breath or
30 blood, as provided in § 5-65-103, the arrested person shall immediately
31 surrender his or her license, permit, or other evidence of driving privilege
32 to the arresting law enforcement officer as provided in § 5-65-402.

33 (2) The Office of Driver Services or its designated official
34 shall suspend or revoke the driving privilege of an arrested person or shall
35 suspend any nonresident driving privilege of an arrested person, as provided
36 in § 5-65-402. The suspension or revocation shall be based on the number of



1 previous offenses as follows:

2 (A) Suspension for:

3 (i) ~~(a) One hundred twenty (120) days~~ Six (6) months
 4 for the first offense of operating or being in actual physical control of a
 5 motor vehicle while intoxicated or while there was an alcohol concentration
 6 of at least eight hundredths (0.08) ~~but less than fifteen hundredths (0.15)~~
 7 by weight of alcohol in the person's blood or breath, § 5-65-103~~+~~.

8 (b) If the Office of Driver Services allows
 9 the issuance of an ignition interlock restricted license under § 5-65-118,
 10 the ignition interlock restricted license shall be available immediately.

11 (c) The restricted driving permit under § 5-
 12 65-120 is not allowed for a suspension under this subdivision (a)(2)(A)(i);
 13 and

14 (ii) Suspension for six (6) months for the first
 15 offense of operating or being in actual physical control of a motor vehicle
 16 while intoxicated by the ingestion of or by the use of a controlled
 17 substance; ~~and~~

18 ~~(iii)(a) Suspension for one hundred eighty (180)~~
 19 ~~days for the first offense of operating or being in actual physical control~~
 20 ~~of a motor vehicle while intoxicated and while there was an alcohol~~
 21 ~~concentration of fifteen hundredths (0.15) or more by weight of alcohol in~~
 22 ~~the person's blood or breath.~~

23 ~~(b) However, if the office allows the issuance~~
 24 ~~of an ignition interlock restricted license under § 5-65-118, the ignition~~
 25 ~~interlock restricted license shall be available immediately.~~

26 ~~(c) The restricted driving permit provision of~~
 27 ~~§ 5-65-120 does not apply to this suspension;~~

28 (B)(i) Suspension for twenty-four (24) months for a second
 29 offense of operating or being in actual physical control of a motor vehicle
 30 while intoxicated or while there was an alcohol concentration of eight
 31 hundredths (0.08) or more by weight of alcohol in the person's blood or
 32 breath, § 5-65-103, within five (5) years of the first offense.

33 (ii) However, if the office allows the issuance of
 34 an ignition interlock restricted license under § 5-65-118, the suspension
 35 period for which ~~no restricted license~~ an ignition interlock restricted
 36 license is not available is a minimum of ~~one (1) year~~ forty-five (45) days;

1 (C)(i) Suspension for thirty (30) months for the third
 2 offense of operating or being in actual physical control of a motor vehicle
 3 while intoxicated or while there was an alcohol concentration of eight
 4 hundredths (0.08) or more by weight of alcohol in the person's blood or
 5 breath, § 5-65-103, within five (5) years of the first offense.

6 (ii) However, if the office allows the issuance of
 7 an ignition interlock restricted license under § 5-65-118, the suspension
 8 period for which ~~no restricted license~~ an ignition interlock restricted
 9 license is not available is ~~a minimum of one (1) year~~ forty-five (45) days;
 10 and

11 (D) Revocation for four (4) years, during which no
 12 restricted permits may not be issued, for the fourth or subsequent offense of
 13 operating or being in actual physical control of a motor vehicle while
 14 intoxicated or while there was an alcohol concentration of eight hundredths
 15 (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-
 16 103, within five (5) years of the first offense.

17 (3) If a person is a resident who is convicted of driving
 18 without a license or permit to operate a motor vehicle and the underlying
 19 basis for the suspension, revocation, or restriction of the license or permit
 20 was for a violation of § 5-65-103, in addition to ~~any~~ other penalties
 21 provided for under law, the office may restrict the offender to only an
 22 ignition interlock restricted license under § 5-65-118 for a period of one
 23 (1) year prior to the reinstatement or reissuance of a license or permit
 24 after the person would otherwise be eligible for reinstatement or reissuance
 25 of the person's license or permit.

26 (4) In order to determine the number of previous offenses to
 27 consider when suspending or revoking the arrested person's driving
 28 privileges, the office shall consider as a previous offense any of the
 29 following that occurred within the five (5) years immediately before the
 30 current offense:

31 (A) Any conviction for an offense of operating or being in
 32 actual physical control of a motor vehicle while intoxicated or while there
 33 was an alcohol concentration of eight-hundredths (0.08) or more in the
 34 person's breath or blood that occurred:

- 35 (i) In Arkansas; or
- 36 (ii) In another state;

1 (B) Any suspension or revocation of driving privileges for
2 an arrest for operating or being in actual physical control of a motor
3 vehicle while intoxicated or while there was an alcohol concentration of
4 eight-hundredths (0.08) or more in the person's breath or blood under § 5-65-
5 103 when the person was not subsequently acquitted of the criminal charges;
6 or

7 (C) Any conviction under § 5-76-102 for an offense of
8 operating a motorboat on the waters of this state while intoxicated or while
9 there was an alcohol concentration in the person's breath or blood of eight-
10 hundredths (0.08) or more based upon the definition of breath, blood, and
11 urine concentration in § 5-65-204 or refusing to submit to a chemical test
12 under § 5-76-104 occurring on or after July 31, 2007 when the person was not
13 subsequently acquitted of the criminal charges.

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15 SECTION 2. Arkansas Code § 5-65-120 is amended to read as follows:
16 5-65-120. Restricted driving permit.

17 (a) Following an administrative hearing for suspension or revocation
18 of a driver's license as provided for in § 5-65-402, or upon a request of a
19 person whose privilege to drive has been denied or suspended, the Office of
20 Driver Services or its designated agent may modify the denial or suspension
21 in a case of extreme and unusual hardship by the issuance of a restricted
22 driving permit when, upon a review of the person's driving record for a time
23 period of five (5) years prior to the current denial, revocation, or
24 suspension or denial of driving privilege or a driver's license, at the
25 discretion of the office or its designated agent it is determined that:

26 (1) The person:

- 27 (A) Is not a multiple traffic law offender; or
- 28 (B) Does not present a threat to the general public; and

29 (2) No other adequate means of transportation exists for the
30 person except to allow driving in any of the following situations:

- 31 (A) To and from the person's place of employment;
- 32 (B) In the course of the person's employment;
- 33 (C) To and from an educational institution for the purpose
34 of attending a class if the person is enrolled and regularly attending a
35 class at the institution;
- 36 (D) To and from the alcohol education and alcoholism

1 treatment programs for drunk drivers; or

2 (E) To and from a hospital or clinic for medical treatment
3 or care for an illness, disease, or other medical condition of the person or
4 a family member.

5 (b) The restricted driving permit shall state the specific times and
6 circumstances under which driving is permitted.

7 (c) The restricted driving permit shall not be granted to any person
8 suspended for a second or subsequent offense of violating § 5-65-103, § 5-65-
9 205, § 5-65-303, or § 5-65-310.

10 ~~(d) For any arrest or offense occurring before July 30, 1999, and the~~
11 ~~offense has not reached a final disposition as to judgment in court, the~~
12 ~~offense shall be decided under the law in effect at the time the offense~~
13 ~~occurred, and any defendant is subject to the penalty provisions in effect at~~
14 ~~that time and not under the provisions of this section.~~

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