

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 1799

4
5 By: Representative Harrelson
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For An Act To Be Entitled

8
9 AN ACT REGARDING DWI IGNITION INTERLOCK DEVICES;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT REGARDING DWI IGNITION INTERLOCK
14 DEVICES.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 5-65-104(a), regarding the permissible uses
20 for DWI ignition interlock devices, is amended to read as follows:

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

27 (2) The Office of Driver Services or its designated official
28 shall suspend or revoke the driving privilege of an arrested person or shall
29 suspend any nonresident driving privilege of an arrested person, as provided
30 in § 5-65-402. The suspension or revocation shall be based on the number of
31 previous offenses as follows:

32 (A) Suspension for:

33 (i) One hundred twenty (120) days for the first
34 offense of operating or being in actual physical control of a motor vehicle
35 while intoxicated or while there was an alcohol concentration of at least
36 eight hundredths (0.08) but less than fifteen hundredths (0.15) by weight of



1 alcohol in the person's blood or breath, § 5-65-103;

2 (ii) Suspension for six (6) months for the first
3 offense of operating or being in actual physical control of a motor vehicle
4 while intoxicated by the ingestion of or by the use of a controlled
5 substance; and

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

11 (b) However, if the office allows the issuance
12 of an ignition interlock restricted license under § 5-65-118, the ignition
13 interlock restricted license shall be available immediately.

14 (c) The restricted driving permit provision of
15 § 5-65-120 does not apply to this suspension;

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

21 (ii) However, if the office allows the issuance of
22 an ignition interlock restricted license under § 5-65-118, the suspension
23 period for which no restricted license is available is a minimum of ~~one (1)~~
24 year forty-five (45) days, followed by restricted driving privileges to allow
25 driving in any and all of the following situations;

26 (a) To and from his or her employment;

27 (b) In the course of his or her employment;

28 (c) To and from an educational institution for
29 the purpose of attending classes at the institution;

30 (d) To and from the alcohol safety education
31 and treatment course for drunk drivers; or

32 (e) To and from ignition interlock service.

33 (C)(i) Suspension for thirty (30) months for the third
34 offense of operating or being in actual physical control of a motor vehicle
35 while intoxicated or while there was an alcohol concentration of eight
36 hundredths (0.08) or more by weight of alcohol in the person's blood or

1 breath, § 5-65-103, within five (5) years of the first offense.

2 (ii) However, if the office allows the issuance of
3 an ignition interlock restricted license under § 5-65-118, the suspension
4 period for which no restricted license is available is a minimum of ~~one (1)~~
5 year forty-five (45) days, followed by restricted driving privileges to allow
6 driving in any and all of the following situations; ~~and~~

7 (a) To and from his or her employment;

8 (b) In the course of his or her employment;

9 (c) To and from an educational institution for
10 the purpose of attending classes at the institution;

11 (d) To and from the alcohol safety education
12 and treatment course for drunk drivers; or

13 (e) To and from ignition interlock service.

14 (D) Revocation for four (4) years, during which no
15 restricted permits may be issued, for the fourth or subsequent offense of
16 operating or being in actual physical control of a motor vehicle while
17 intoxicated or while there was an alcohol concentration of eight hundredths
18 (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-
19 103, within five (5) years of the first offense.

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

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

34 (A) Any conviction for an offense of operating or being in
35 actual physical control of a motor vehicle while intoxicated or while there
36 was an alcohol concentration of eight-hundredths (0.08) or more in the

1 person's breath or blood that occurred:

2 (i) In Arkansas; or

3 (ii) In another state;

4 (B) Any suspension or revocation of driving privileges for
5 an arrest for operating or being in actual physical control of a motor
6 vehicle while intoxicated or while there was an alcohol concentration of
7 eight-hundredths (0.08) or more in the person's breath or blood under § 5-65-
8 103 when the person was not subsequently acquitted of the criminal charges;
9 or

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

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18 SECTION 2. Arkansas Code § 5-65-118(a)(1), regarding DWI ignition
19 interlock devices, is amended to read as follows:

20 (a)(1)(A)(i) In addition to any other penalty authorized for a
21 violation of this chapter, upon an arrest of a person for violating § 5-65-
22 103 for a first, ~~or~~ second, or third offense, the Office of Driver Services
23 may restrict the person to operating only a motor vehicle that is equipped
24 with a functioning ignition interlock device.

25 (ii) The restriction may continue for a period of up
26 to one (1) year after the person's license is no longer suspended or
27 restricted under the provisions of § 5-65-104.

28 (B) ~~Upon a finding that a person is financially able to~~
29 ~~afford an ignition interlock device and upon an arrest for a violation of §~~
30 ~~5-65-103 for a third or subsequent offense, the office may restrict the~~
31 ~~offender to operate only a motor vehicle that is equipped with a functioning~~
32 ~~ignition interlock device for up to one (1) year after the person's license~~
33 ~~is no longer suspended or restricted under § 5-65-104~~ Upon a first, second,
34 third, or subsequent conviction for a violation of § 5-65-103, the court may
35 order that a motor vehicle operated by the convicted person be equipped with
36 a functioning ignition interlock device for up to one (1) year after the

1 convicted person's drivers license is no longer suspended or restricted under
2 § 5-65-104.

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