

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

As Engrossed: H3/20/09

A Bill

HOUSE BILL 1799

5 By: Representative Harrelson
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For An Act To Be Entitled

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

Subtitle

12 AN ACT REGARDING DWI IGNITION INTERLOCK
13 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) To and from an educational institution for
28 the purpose of attending class at the educational institution;

29 (c) To and from an alcohol safety education
30 and treatment course for drunk drivers; or

31 (d) To and from an ignition interlock service.

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

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

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

7 (b) To and from an educational institution for
 8 the purpose of attending class at the education institution;

9 (c) To and from an alcohol safety education
 10 and treatment course for drunk drivers; or

11 (d) To and from an ignition interlock service.

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

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

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;

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

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

/s/ Harrelson