

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 2259

4
5 By: Representative Cole
6
7

For An Act To Be Entitled

8
9 AN ACT INCREASING THE FELONY CLASSIFICATION FOR
10 NEGLIGENT HOMICIDE; TO PROVIDE FOR LICENSE
11 SUSPENSION FOR A CONVICTION FOR NEGLIGENT
12 HOMICIDE; TO PROVIDE FOR A DWI ENHANCEMENT FOR A
13 CONVICTION FOR NEGLIGENT HOMICIDE; AND FOR OTHER
14 PURPOSES.
15

Subtitle

16
17 INCREASING THE FELONY CLASSIFICATION FOR
18 NEGLIGENT HOMICIDE AND PROVIDING FOR A
19 LICENSE SUSPENSION AND DWI ENHANCEMENT
20 FOR A CONVICTION FOR NEGLIGENT HOMICIDE.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 5-10-105(a), concerning the crime of
26 negligent homicide, is amended to read as follows:

27 5-10-105. Negligent homicide.

28 (a)(1) A person commits negligent homicide if he or she negligently
29 causes the death of another person, not constituting murder or manslaughter,
30 as a result of operating a vehicle, an aircraft, or a watercraft:

31 (A) While intoxicated; or

32 (B)(i) If at that time there is an alcohol concentration
33 of eight-hundredths (0.08) or more in the person's breath or blood based upon
34 the definition of breath, blood, and urine concentration in § 5-65-204, as
35 determined by a chemical test of the person's blood, urine, breath, or other
36 bodily substance.



1 (ii) The method of chemical analysis of the person's
2 blood, urine, or breath shall be made in accordance with §§ 5-65-204 and 5-
3 65-206; or

4 (C) While passing a stopped school bus in violation of §
5 27-51-1004.

6 (2) A person who violates subdivision (a)(1) of this section is
7 guilty of a Class C B felony.

8

9 SECTION 2. Arkansas Code § 5-65-104(a), concerning the seizure,
10 suspension, and revocation of a driver's license upon conviction for driving
11 while intoxicated, is amended to read as follows:

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

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

23 (A) Suspension for:

24 (i) One hundred twenty (120) days for the first
25 offense of operating or being in actual physical control of a motor vehicle
26 while intoxicated or while there was an alcohol concentration of at least
27 eight hundredths (0.08) but less than fifteen hundredths (0.15) by weight of
28 alcohol in the person's blood or breath, § 5-65-103;

29 (ii) Suspension for six (6) months for the first
30 offense of operating or being in actual physical control of a motor vehicle
31 while intoxicated by the ingestion of or by the use of a controlled
32 substance; and

33 (iii)(a) Suspension for one hundred eighty (180)
34 days for the first offense of operating or being in actual physical control
35 of a motor vehicle while intoxicated and while there was an alcohol
36 concentration of fifteen hundredths (0.15) or more by weight of alcohol in

1 the person's blood or breath.

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

5 (c) The restricted driving permit provision of
 6 § 5-65-120 does not apply to this suspension;

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

12 (ii) However, if the office allows the issuance of
 13 an ignition interlock restricted license under § 5-65-118, the suspension
 14 period for which no restricted license is available is a minimum of one (1)
 15 year;

16 (C)(i) Suspension for thirty (30) months for the third
 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; and

25 (D) Revocation for four (4) years, during which no
 26 restricted permits may be issued, for the fourth or subsequent offense of
 27 operating or being in actual physical control of a motor vehicle while
 28 intoxicated or while there was an alcohol concentration of eight hundredths
 29 (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-
 30 103, within five (5) years of the first offense.

31 (3) If a person is a resident who is convicted of driving
 32 without a license or permit to operate a motor vehicle and the underlying
 33 basis for the suspension, revocation, or restriction of the license was for a
 34 violation of § 5-65-103, in addition to any other penalties provided for
 35 under law, the office may restrict the offender to only an ignition interlock
 36 restricted license for a period of one (1) year prior to the reinstatement or

1 reissuance of a license or permit after the person would otherwise be
 2 eligible for reinstatement or reissuance of the person's license.

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

8 (A) Any conviction for an offense of operating or being in
 9 actual physical control of a motor vehicle while intoxicated or while there
 10 was an alcohol concentration of eight-hundredths (0.08) or more in the
 11 person's breath or blood, including a violation of § 5-10-105(a)(1)(A) or
 12 (B), that occurred:

- 13 (i) In Arkansas; or
- 14 (ii) In another state;

15 (B) Any suspension or revocation of driving privileges for
 16 an arrest for operating or being in actual physical control of a motor
 17 vehicle while intoxicated or while there was an alcohol concentration of
 18 eight-hundredths (0.08) or more in the person's breath or blood under § 5-65-
 19 103 when the person was not subsequently acquitted of the criminal charges;
 20 or

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

28
 29 SECTION 3. Arkansas Code § 5-65-111, concerning prison terms upon
 30 conviction for driving while intoxicated, is amended to add a new subsection
 31 to read as follows:

32 (e) A prior conviction for § 5-10-105(a)(1)(A) or (B) is considered a
 33 previous offense for purposes of subsection (b) of this section.