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2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/30/11

A Bill

SENATE BILL 783

5 By: Senator J. Key
6 By: Representative Hopper
7

For An Act To Be Entitled

9 AN ACT TO REQUIRE AN ADMINISTRATIVE SUSPENSION OF A
10 PERSON'S DRIVER'S LICENSE IF HE OR SHE IS ARRESTED
11 FOR OR CONVICTED OF NEGLIGENT HOMICIDE RESULTING FROM
12 DRIVING WHILE INTOXICATED; AND FOR OTHER PURPOSES.
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Subtitle

15 TO REQUIRE AN ADMINISTRATIVE SUSPENSION
16 OF A PERSON'S DRIVER'S LICENSE IF HE OR
17 SHE IS ARRESTED FOR OR CONVICTED OF
18 NEGLIGENT HOMICIDE RESULTING FROM DRIVING
19 WHILE INTOXICATED.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 5-10-105, concerning negligent homicide, is
26 amended to add an additional subsection to read as follows:

27 (d) A person who violates subdivision (a)(1)(A) or (B) of this section
28 is subject to the seizure by law enforcement and administration suspension
29 and revocation of his or her driver's license under §§ 5-65-104 and 5-65-402.
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31 SECTION 2. Arkansas Code § 5-65-104(a)(1), concerning the seizure,
32 suspension, and revocation of license, issuance of temporary permits, and
33 ignition interlock restricted licenses, is amended to read as follows:

34 (a)(1)(A) At the time of arrest for operating or being in actual
35 physical control of a motor vehicle while intoxicated or while there was an
36 alcohol concentration of eight hundredths (0.08) or more in the person's



1 breath or blood, as provided in § 5-65-103, the arrested person shall
 2 immediately surrender his or her license, permit, or other evidence of
 3 driving privilege to the arresting law enforcement officer as provided in §
 4 5-65-402.

5 (B) At the time of arrest for negligent homicide under §
 6 5-10-105(a)(1)(A) or (B), the arrested person shall immediately surrender his
 7 or her license, permit, or other evidence of driving privilege to the
 8 arresting law enforcement officer as provided in § 5-65-402.

9
 10 SECTION 3. Arkansas Code § 5-65-104(a)(2)(A), regarding the seizure,
 11 suspension, and revocation of license, issuance of temporary permits, and
 12 ignition interlock restricted licenses, is amended to add an additional
 13 subdivision to read as follows:

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

19 *(A) ~~Suspension for~~ For the first offense:*

20 *(i)(a) ~~Six~~ Suspension for six (6) months for*
 21 *~~the first offense of~~ operating or being in actual physical control of a motor*
 22 *vehicle while intoxicated or while there was an alcohol concentration of at*
 23 *least eight hundredths (0.08) by weight of alcohol in the person's blood or*
 24 *breath, § 5-65-103.*

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

28 *(c) The restricted driving permit under § 5-*
 29 *65-120 is not allowed for a suspension under this subdivision (a)(2)(A)(i);*
 30 *and*

31 *(ii)(a) Suspension for six (6) months for ~~the first~~*
 32 *~~offense of~~ operating or being in actual physical control of a motor vehicle*
 33 *while intoxicated by the ingestion of or by the use of a controlled*
 34 *substance.*

35 *(b) The ignition interlock restricted license*
 36 *provision of § 5-65-118 does not apply to a suspension under subdivision*

1 (a)(2)(A)(ii)(a) of this section; or
2 (iii) Revocation for one (1) year during which a
3 restricted permit shall not be issued for negligent homicide under § 5-10-
4 105(a)(1)(A) or (B);

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6 SECTION 4. Arkansas Code § 5-65-104(a)(2)(B), regarding the seizure,
7 suspension, and revocation of license, issuance of temporary permits, and
8 ignition interlock restricted licenses, is amended to add an additional
9 subdivision to read as follows:

10 (iv) Revocation for two (2) years during which a
11 restricted permit shall not be issued for a second offense of negligent
12 homicide under § 5-10-105(a)(1)(A) or (B) within five (5) years of the first
13 offense;

14
15 SECTION 5. Arkansas Code § 5-65-104(a)(2)(C), regarding the seizure,
16 suspension, and revocation of license, issuance of temporary permits, and
17 ignition interlock restricted licenses, is amended to add an additional
18 subdivision to read as follows:

19 (iv) Revocation for three (3) years during which a
20 restricted permit shall not be issued for the third offense of negligent
21 homicide under § 5-10-105(a)(1)(A) or (B) within five (5) years of the first
22 offense;

23
24 SECTION 6. Arkansas Code § 5-65-104(a)(2)(D), regarding the seizure,
25 suspension, and revocation of license, issuance of temporary permits, and
26 ignition interlock restricted licenses, is amended to read as follows:

27 (D)(i) Revocation for four (4) years, during which no
28 restricted permits may be issued, for the fourth or subsequent offense of
29 operating or being in actual physical control of a motor vehicle while
30 intoxicated or while there was an alcohol concentration of eight hundredths
31 (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-
32 103, within five (5) years of the first offense.

33 (ii) Revocation for four (4) years during which no
34 restricted permits may be issued for the fourth or subsequent offense of
35 negligent homicide under § 5-10-105(a)(1)(A) or (B) within five (5) years of
36 the first offense.

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2 SECTION 7. Arkansas Code § 5-65-104(a)(3), regarding the seizure,
3 suspension, and revocation of license, issuance of temporary permits, and
4 ignition interlock restricted licenses, is amended to add an additional
5 subdivision to read as follows:

6 (3) If a person is a resident who is convicted of driving
7 without a license or permit to operate a motor vehicle and the underlying
8 basis for the suspension, revocation, or restriction of the license was for a
9 violation of § 5-65-103 or for negligent homicide under § 5-10-105(a)(1)(A)
10 or (B), in addition to any other penalties provided for under law, the office
11 may restrict the offender to only an ignition interlock restricted license
12 for a period of one (1) year prior to the reinstatement or reissuance of a
13 license or permit after the person would otherwise be eligible for
14 reinstatement or reissuance of the person's license.

15
16 SECTION 8. Arkansas Code § 5-65-104(a)(4), regarding the seizure,
17 suspension, and revocation of license, issuance of temporary permits, and
18 ignition interlock restricted licenses, is amended to add an additional
19 subdivision to read as follows:

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

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

30 (i) In Arkansas; or

31 (ii) In another state;

32 (B) ~~Any~~ A suspension or revocation of driving privileges
33 for an arrest for operating or being in actual physical control of a motor
34 vehicle while intoxicated or while there was an alcohol concentration of
35 eight hundredths (0.08) or more in the person's breath or blood under § 5-65-
36 103, when the person was not subsequently acquitted of the criminal charges;

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

9 (D) A suspension or revocation of driving privileges for
10 an arrest for negligent homicide under § 5-10-105(a)(1)(A) or (B); or

11 (E) A conviction for negligent homicide under § 5-10-
12 105(a)(1)(A) or (B) or in another state.

13
14 SECTION 9. Arkansas Code § 5-65-104(b)(1)(B), regarding the seizure,
15 suspension, and revocation of license, issuance of temporary permits, and
16 ignition interlock restricted licenses, is amended to add an additional
17 subdivision to read as follows:

18 (B) If during the period of suspension or revocation under
19 subdivision (b)(1)(A) of this section the person commits an additional
20 violation of § 5-65-103 or negligent homicide under § 5-10-105(a)(1)(A) or
21 (B), he or she is also required to complete an approved alcohol education
22 program or alcohol treatment program for each additional violation, unless:

23 (i) The additional charges are dismissed; or
24 (ii) He or she is acquitted of the additional
25 charges.

26
27 SECTION 10. Arkansas Code § 5-65-402(a)(1)(A), concerning the
28 surrender of a license or permit to arresting officer, is amended to read as
29 follows:

30 (a)(1)(A) At the time of arrest for violating § 3-3-203(a), § 5-10-
31 105(a)(1)(A) or (B), § 5-27-503(a)(3), § 5-65-103, § 5-65-205, § 5-65-303, §
32 5-65-310, § 27-23-114(a)(1), § 27-23-114(a)(2), or § 27-23-114(a)(5), the
33 arrested person shall immediately surrender his or her license, permit, or
34 other evidence of driving privilege to the arresting law enforcement officer.

35
36 SECTION 11. Arkansas Code § 5-65-402(a)(4)(A), concerning the

1 surrender of a license or permit to arresting officer, is amended to add an
2 additional subdivision to read as follows:

3 (iv) Has been arrested for negligent homicide under
4 § 5-10-105(a)(1)(A) or (B).

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6 SECTION 12. Arkansas Code § 5-65-402(a)(4)(B)(i), concerning the
7 surrender of a license or permit to arresting officer, is amended to add an
8 additional subdivision to read as follows:

9 (i) The driving privileges of ~~any person violating a~~
10 person who violates § 5-10-105(a)(1)(A) or (B) or § 5-65-103 shall be
11 suspended or revoked as provided by § 5-65-104;

12

13 SECTION 13. Arkansas Code § 5-65-402(a)(8)(D)(i), concerning the
14 surrender of a license or permit to arresting officer, is amended to add an
15 additional subdivision to read as follows:

16 (e) The person committed negligent homicide
17 under § 5-10-105(a)(1)(A) or (B);

18

19 SECTION 14. Arkansas Code § 5-65-402(d), concerning the surrender of a
20 license or permit to arresting officer, is amended to add an additional
21 subdivision to read as follows:

22 (d)(1) ~~Any~~ A decision rendered at an administrative hearing held under
23 this section shall have no effect on any criminal case arising from any
24 violation of § 3-3-203(a), § 5-10-105(a)(1)(A) or (B), § 5-27-503(a)(3), § 5-
25 65-103, § 5-65-205, § 5-65-303, § 5-65-310, § 27-23-114(a)(1), § 27-23-
26 114(a)(2), or § 27-23-114(a)(5).

27

28 (2) ~~Any~~ A decision rendered by a court of law for a criminal
29 case arising from any violation of § 3-3-203(a), § 5-27-503(a)(3), § 5-10-
30 105(a)(1)(A) or (B), § 5-65-103, § 5-65-205, § 5-65-303, § 5-65-310, § 27-23-
31 114(a)(1), § 27-23-114(a)(2), or § 27-23-114(a)(5) shall affect the
32 administrative suspension, disqualification, or revocation of the driver's
33 license as follows:

34

35 (A) A plea of guilty or nolo contendere or a finding of
36 guilt by the court has no effect on ~~any~~ an administrative hearing held under
this section;

36

(B)(i) An acquittal on the charges or a dismissal of

1 charges serves to reverse the suspension, disqualification, or revocation of
2 the driver's license suspended or revoked under this section.

3 (ii) The office shall reinstate the person's
4 driver's license at no cost to the person, and the charges shall not be used
5 to determine the number of previous offenses when administratively
6 suspending, disqualifying, or revoking the driving privilege of ~~any~~ an
7 arrested person in the future; and

8 (C) The office shall convert ~~any~~ an initial administrative
9 suspension or revocation of a driver's license for violating § 5-65-103 to a
10 suspension or revocation for violating § 5-65-303, if the person is convicted
11 *of violating § 5-65-303 instead of § 5-65-103;*and

12 (D) The office shall convert an initial administrative
13 suspension or revocation of a driver's license for violating § 5-65-103 to a
14 revocation for violating § 5-10-105(a)(1)(A) or (B), if the person is
15 convicted of violating § 5-10-105(a)(1)(A) or (B) instead of § 5-65-103."
16

17 *SECTION 15. Arkansas Code § 27-16-905 is amended to read as follows:*

18 *27-16-905. Mandatory revocation for conviction of certain offenses.*

19 *The Office of Driver Services shall forthwith revoke the license of any*
20 *driver upon receiving a record of the driver's conviction of any of the*
21 *following offenses, when the conviction has become final:*

22 (1) *Manslaughter or negligent homicide resulting from the*
23 *operation of a motor vehicle, except as provided under § 5-10-105(a)(1)(A) or*
24 *(B);*

25 (2) *Any felony in the commission of which a motor vehicle is*
26 *used;*

27 (3) *Failure to stop and render aid as required under the laws of*
28 *this state in the event of a motor vehicle accident resulting in the death or*
29 *personal injury of another;*

30 (4) *Perjury or the making of a false affidavit or statement*
31 *under oath to the office under this act or under any other law relating to*
32 *the ownership or operation of motor vehicles; or*

33 (5) *Conviction, or forfeiture of bail not vacated, upon three*
34 *(3) charges of reckless driving committed within a period of twelve (12)*
35 *months.*
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/s/J. Key