

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: H4/3/13*

# A Bill

HOUSE BILL 1394

5 By: Representatives Fielding, Baltz, Hawthorne, House, Julian, McGill, Sabin, F. Smith, D. Whitaker,  
6 Word

7 By: Senator Irvin  
8

## For An Act To Be Entitled

9  
10 AN ACT TO MAKE OUR ROADS SAFER BY PROVIDING FOR  
11 EDUCATION AND TESTING CONCERNING DISTRACTED DRIVING;  
12 TO ENSURE DETERRENCE FROM TEXTING WHILE DRIVING BY  
13 INCREASING THE RELATED PENALTIES; AND FOR OTHER  
14 PURPOSES.  
15

## Subtitle

16  
17  
18 TO MAKE OUR ROADS SAFER BY PROVIDING FOR  
19 EDUCATION AND TESTING CONCERNING  
20 DISTRACTED DRIVING; AND TO ENSURE  
21 DETERRENCE FROM TEXTING WHILE DRIVING BY  
22 INCREASING THE RELATED PENALTIES.  
23

24  
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code § 27-16-706 is amended to read as follows:  
28 27-16-706. Written test – Contents.

29 The driver's license test shall include written questions concerning:

30 (1) The effects of the consumption of alcoholic beverage  
31 products and the use of illegal drugs, prescription drugs, and  
32 nonprescription drugs on the ability of a person to operate a motor vehicle;

33 (2) The legal and financial consequences resulting from  
34 violations of the state's laws prohibiting the operation of a motor vehicle  
35 while under the influence of alcohol or drugs;

36 (3) Accessible parking for a person with a disability; ~~and~~



1 (4) Penalties for the unauthorized use of parking designated for  
2 the exclusive use of a person with a disability~~;~~ and

3 (5) The effects and hazards of distracted driving and the  
4 penalties for violations of state distracted driving laws.

5  
6 SECTION 2. Arkansas Code § 27-16-804(b)(2)(B)(iii), concerning the use  
7 of a cellular telephone device by a driver under eighteen (18) years of age,  
8 is amended to read as follows:

9 (iii) The driver shall not use a cellular telephone  
10 device, wireless telephone, or other interactive wireless communication  
11 device while operating a motor vehicle except for an emergency purpose as  
12 provided under the Fewer Distractions Mean Safer Driving Act, § 27-51-1601 et  
13 seq. ~~As used in this subdivision (b)(2)(B)(iii), "emergency purpose" means~~  
14 ~~the driver:~~

15 ~~(a) Has reason to fear for his or her life, safety,~~  
16 ~~or property;~~

17 ~~(b) Reasonably believes that a criminal act may be~~  
18 ~~perpetrated against him or her, his or her property, another person, or~~  
19 ~~another person's property; or~~

20 ~~(c) Is reporting:~~

21 ~~(1) A fire;~~

22 ~~(2) A traffic accident;~~

23 ~~(3) A serious road hazard;~~

24 ~~(4) A medical emergency;~~

25 ~~(5) A hazardous materials emergency;~~

26 ~~(6) Another driver who is recklessly,~~  
27 ~~carelessly, or unsafely driving; or~~

28 ~~(7) Another driver who appears to be driving~~  
29 ~~under the influence of drugs or alcohol.~~

30  
31 SECTION 3. Arkansas Code § 27-16-804(e), concerning penalties for  
32 violation of motor vehicle license restrictions, is amended to read as  
33 follows:

34 (e) ~~It~~ Unless otherwise provided by law, it is a misdemeanor for ~~any a~~  
35 person to operate a motor vehicle in ~~any a~~ manner in violation of the  
36 restrictions imposed in a restricted license issued to him or her.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

SECTION 4. Arkansas Code § 27-16-804(f)(4), concerning use of a cellular telephone device by a driver with a learner's license, is amended to read as follows:

(4)(A) A driver with a learner's license shall not use a cellular telephone device, wireless telephone, or other interactive wireless communication device while operating a motor vehicle except for an emergency purpose as provided under the Fewer Distractions Mean Safer Driving Act, § 27-51-1601 et seq.

~~(B) As used in this subdivision (f)(4), "emergency purpose" means the driver:~~

~~(i) Has reason to fear for his or her life, safety, or property;~~

~~(ii) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or~~

~~(iii) Is reporting:~~

~~(a) A fire;~~

~~(b) A traffic accident;~~

~~(c) A serious road hazard;~~

~~(d) A medical emergency;~~

~~(e) A hazardous materials emergency;~~

~~(f) Another driver who is recklessly, carelessly, or unsafely driving; or~~

~~(g) Another driver who appears to be driving under the influence of drugs or alcohol.~~

~~(C)(B)~~ This subdivision (f)(4) is not retroactive and applies only to a person who:

(i) Applies for a learner's license after the effective date of this act; and

(ii) Is issued a learner's license after the effective date of this act.

SECTION 5. Arkansas Code § 27-16-804(g)(1)(D), concerning use of a cellular telephone device by a driver with an intermediate license, is amended to read as follows:

1 (D)~~(i)~~ A driver with an intermediate driver's license  
 2 shall not use a cellular telephone device, wireless telephone, or other  
 3 interactive wireless communication device while operating a motor vehicle  
 4 except for an emergency purpose, as provided under the Fewer Distractions  
 5 Mean Safer Driving Act, § 27-51-1601 et seq.

6 ~~(ii) As used in this subdivision (g)(1)(D),~~  
 7 ~~"emergency purpose" means the driver:~~

8 ~~(a) Has reason to fear for his or her life,~~  
 9 ~~safety, or property;~~

10 ~~(b) Reasonably believes that a criminal act~~  
 11 ~~may be perpetrated against him or her, his or her property, another person,~~  
 12 ~~or another person's property; or~~

13 ~~(c) Is reporting:~~

14 ~~(1) A fire;~~

15 ~~(2) A traffic accident;~~

16 ~~(3) A serious road hazard;~~

17 ~~(4) A medical emergency;~~

18 ~~(5) A hazardous materials emergency;~~

19 ~~(6) Another driver who is recklessly,~~  
 20 ~~carelessly, or unsafely driving; or~~

21 ~~(7) Another driver who appears to be~~  
 22 ~~driving under the influence of drugs or alcohol.~~

23  
 24 SECTION 6. Arkansas Code § 27-18-108 is amended to read as follows:

25 27-18-108. Instruction manual.

26 The driver's instruction manual of the Department of Arkansas State  
 27 Police issued to persons who are preparing to take a driver's license  
 28 examination shall include information on driver and highway safety matters,  
 29 including:

30 (1) The effects of the consumption of beverage alcohol products  
 31 and the use of illegal drugs, prescription drugs, and nonprescription drugs  
 32 on the ability of a person to operate a motor vehicle;

33 (2) The hazards of driving while under the influence;

34 (3) The penalties for driving while under the influence;

35 (4) The effect and hazards of discarding litter upon or along  
 36 the public highways of Arkansas and the penalties for violations of the

1 Litter Control Act, § 8-6-401 et seq.; ~~and~~

2 (5) The effects and hazards of unsafe driving through highway  
3 work zones and the penalties for violations for driving unsafely through  
4 highway work zones; and

5 (6) The effects and hazards of distracted driving and the  
6 penalties for violations of state distracted driving laws.

7  
8 *SECTION 7. Arkansas Code § 27-51-1503(1)(B), concerning definitions*  
9 *under Paul's Law: To Prohibit Drivers of Motor Vehicles from Using Handheld*  
10 *Wireless Telephones to Engage in Text Messaging, § 27-51-1501 et seq., is*  
11 *amended to add an additional subdivision to read as follows:*

12 (B) "Handheld wireless telephone" does not include a:

13 (i) Hands-free wireless telephone or device;

14 (ii) Citizens band radio; ~~or~~

15 (iii) Citizens band radio hybrid; or

16 (iv) Global positioning system device;

17  
18 *SECTION 8. Arkansas Code § 27-51-1504, concerning use of a handheld*  
19 *wireless telephone when driving, is amended to add an additional subsection*  
20 *to read as follows:*

21 (c) A person violating subsection (a) of this section while driving or  
22 operating a vehicle in such a careless manner as to evidence a failure to  
23 keep a proper lookout for other traffic, vehicular or otherwise, or in such a  
24 manner as to evidence a failure to maintain proper control on the public  
25 thoroughfares or private property in the State of Arkansas, is subject to the  
26 penalties in § 27-51-1506.

27  
28 *SECTION 9. Arkansas Code § 27-51-1506 is amended to read as follows:*

29 (a) A person who pleads guilty or nolo contendere to or has been found  
30 guilty of violating ~~this section~~ § 27-51-1504(a) commits a violation.

31 (b) A person who pleads guilty or nolo contendere to or has been found  
32 guilty of violating § 27-51-1504(c) shall:

33 (1) For a first offense:

34 (A) Pay a fine of two hundred dollars (\$200); and

35 (B) Have his or her driver's license suspended by the  
36 court for a period of not more than thirty (30) days;

1           (2) For a second offense occurring within five (5) years of the  
2 first offense:

3           (A) Pay a fine of three hundred dollars (\$300); and

4           (B) Have his or her driver's license suspended by the  
5 court for a period of not more than ninety (90) days; and

6           (3) For a third and subsequent offense occurring within five (5)  
7 years of the first offense:

8           (A) Pay a fine of five hundred dollars (\$500); and

9           (B) Have his or her driver's license suspended by the  
10 court for a period of not more than one (1) year.

11           (c) Upon request of a person whose privilege to drive has been  
12 suspended under this section the Office of Driver Services may modify the  
13 suspension under § 5-65-120.

14  
15           SECTION 10. Arkansas Code Title 27, Chapter 51, Subchapter 15 is  
16 amended to add an additional section to read as follows:

17           27-51-1507. Applicability.

18           This subchapter does not apply to a person operating a commercial motor  
19 vehicle as defined by 49 C.F.R. § 390.5, as in effect on January 1, 2013.

20  
21           SECTION 11. Arkansas Code § 27-51-1605 is repealed.

22           ~~A driver of a motor vehicle is not to be stopped or detained solely to~~  
23 ~~determine compliance with this subchapter.~~

24  
25           SECTION 12. Arkansas Code § 27-51-1607 is amended to read as follows:

26           (a)(1) For a first offense under ~~this subchapter~~ § 27-51-1603 or § 27-  
27 51-1604, a person shall be issued a warning citation ~~that is a warning~~  
28 ~~citation~~, and no court appearance is required and no penalty shall be imposed  
29 by the court.

30           (2) A record of each warning citation issued shall be  
31 maintained.

32           (b) A person who pleads guilty or nolo contendere to or has been found  
33 guilty of violating ~~this subchapter~~ § 27-51-1603 or § 27-51-1604 for a second  
34 or subsequent offense is guilty of a violation under § 5-1-108 and shall be  
35 fined fifty dollars (\$50.00).

36           (c) A person who pleads guilty or nolo contendere to or has been found

1 guilty of violating § 27-51-1609, § 27-51-1610, or § 27-51-1611 shall:

2 (1) For a first offense:

3 (A) Pay a fine of two hundred dollars (\$200); and

4 (B) Have his or her driver's license suspended by the  
5 court for a period of not more than thirty (30) days;

6 (2) For a second offense occurring within five (5) years of the  
7 first offense:

8 (A) Pay a fine of three hundred dollars (\$300); and

9 (B) Have his or her driver's license suspended by the  
10 court for a period of not more than ninety (90) days; and

11 (3) For a third and subsequent offense occurring within five (5)  
12 years of the first offense:

13 (A) Pay a fine of five hundred dollars (\$500); and

14 (B) Have his or her driver's license suspended by the  
15 court for a period of not more than one (1) year.

16 (d) Upon request of a person whose privilege to drive has been  
17 suspended under this section the Office of Driver Services may modify the  
18 suspension under § 5-65-120.

19  
20 SECTION 13. Arkansas Code Title 27, Chapter 51, Subchapter 16, is  
21 amended to add additional sections to read as follows:

22 27-51-1611. Proper lookout and proper control.

23 A person violating this subchapter while driving or operating a  
24 vehicle in such a careless manner as to evidence a failure to keep a proper  
25 lookout for other traffic, vehicular or otherwise, or in such a manner as to  
26 evidence a failure to maintain proper control on the public thoroughfares or  
27 private property in the State of Arkansas, shall be subject to the penalties  
28 in § 27-51-1607(c).

29  
30 27-51-1612. Applicability

31 This subchapter does not apply to a person operating a commercial motor  
32 vehicle as defined by 49 C.F.R. § 390.5, as in effect on January 1, 2013.

33  
34 /s/Fielding