

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1873

5 By: Representative L. Fite
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE OBLIGATIONS OF AN OPERATOR OF A
9 VESSEL INVOLVED IN A COLLISION OR ACCIDENT; TO AMEND
10 THE CRIMINAL PENALTIES; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND THE OBLIGATIONS OF AN OPERATOR
14 OF A VESSEL INVOLVED IN A COLLISION OR
15 ACCIDENT; AND TO AMEND THE CRIMINAL
16 PENALTIES.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 5-65-207(b), concerning alcohol testing
23 devices, is amended to read as follows:

24 (b) A Except as provided in § 27-101-205(f), a breath analysis made by
25 or through the use of an instrument that does not conform to the requirements
26 of this section is inadmissible in a criminal or civil proceeding.
27

28 SECTION 2. Arkansas Code § 5-65-402(a)(1)(A), concerning the surrender
29 of a license or permit, is amended to read as follows:

30 (a)(1)(A) At the time of arrest for violating § 3-3-203(a), § 5-27-
31 503(a)(3), § 5-65-103, § 5-65-205, § 5-65-303, § 5-65-310, § 27-23-114(a)(1),
32 § 27-23-114(a)(2), ~~or~~ § 27-23-114(a)(5), or § 27-101-205(h)(1), the arrested
33 person shall immediately surrender his or her license, permit, or other
34 evidence of driving privilege to the arresting law enforcement officer.
35

36 SECTION 3. Arkansas Code § 27-101-205 is amended to read as follows:



1 27-101-205. Collision or accident.

2 ~~(a) It shall be the duty of the operator of a vessel involved in a~~
3 ~~collision, accident, or other casualty, so far as he or she can do so without~~
4 ~~serious danger to his or her own vessel, crew, and passengers, if any, to~~
5 ~~render to other persons affected by the collision, accident, or other~~
6 ~~casualty assistance that may be practicable and that may be necessary in~~
7 ~~order to save them from or minimize any danger caused by the collision,~~
8 ~~accident, or other casualty and also to give his or her name, address, and~~
9 ~~identification of his or her vessel in writing to any person injured and to~~
10 ~~the owner of any property damaged in the collision, accident, or other~~
11 ~~casualty.~~

12 ~~(b) In the case of collision, accident, or other casualty involving a~~
13 ~~vessel, if the collision, accident, or other casualty results in death or~~
14 ~~injury to a person or damage to property in excess of two thousand dollars~~
15 ~~(\$2,000) or the disappearance of a person from a vessel under circumstances~~
16 ~~that indicate death or injury, the Arkansas State Game and Fish Commission or~~
17 ~~local sheriff's department having an established water patrol shall be~~
18 ~~immediately notified in order for an investigation to be conducted. In~~
19 ~~addition, the operator of the vessel shall submit a Department of Homeland~~
20 ~~Security, United States Coast Guard Form CG 3865 to the Arkansas State Game~~
21 ~~and Fish Commission Boating Safety Office within ten (10) working days.~~

22 (a) The operator of a vessel involved in a collision or accident
23 shall:

24 (1) Immediately stop the vessel at the scene of the collision or
25 accident or as close as possible to the scene of the collision or accident;

26 (2) Render to those affected by the collision or accident any
27 assistance as may be practicable; and

28 (3) Give the following in writing to each person injured and to
29 the owner of any property damaged in the collision or accident:

30 (A) The operator's name and address; and

31 (B) The name and address of the owner of the vessel
32 involved in the collision or accident if the operator of the vessel is not
33 the owner; and

34 (b)(1) If a collision or accident involving a vessel results in death,
35 serious physical injury as defined in § 5-1-102 property damage that a
36 reasonable person could estimate to be in excess of two thousand dollars

1 (\$2,000), or the disappearance of a person from a vessel under circumstances
 2 that indicate serious physical injury or death, the operator of the vessel
 3 shall:

4 (A) Immediately notify the Arkansas State Game and Fish
 5 Commission, local sheriff's department, or other local law enforcement agency
 6 that has an established water patrol;

7 (B) Remain at the scene of the collision or accident as
 8 defined in subdivision (b)(2) of this section until the Arkansas State Game
 9 and Fish Commission or law enforcement agency arrives; and

10 (C) Submit a United States Department of Homeland
 11 Security, United States Coast Guard Form CG-3865 to the Arkansas State Game
 12 and Fish Commission Boating Safety Office within ten (10) working days.

13 (2) As used in this subsection, "remain at the scene of the
 14 collision or accident" means an operator of a vessel involved in an collision
 15 or accident resulting in injury, death, or damage to the property of another
 16 shall not leave the place where the collision or accident took place:

17 (A) Before the arrival of the Arkansas State Game and Fish
 18 Commission or law enforcement agency; and

19 (B) Without having provided the information required under
 20 subdivision (a)(3) of this section.

21 (c) A law enforcement officer shall request and a person shall submit
 22 to a chemical test of the person's blood, breath, saliva, or urine as
 23 required by § 5-65-208, even if the person is fatally injured, for the
 24 purpose of determining the alcohol concentration or controlled substance
 25 content of his or her blood, breath, saliva, or urine if:

26 (1) The person is operating a vessel and is involved in a
 27 collision, accident, or other casualty resulting in loss of human life or
 28 ~~when~~ if there is reason to believe death may result; or

29 (2) The law enforcement officer has reasonable cause to believe
 30 that the person was operating a vessel while:

31 (A) Intoxicated or under the influence of any narcotic
 32 drug, barbiturate, or marijuana; or

33 (B) Under any physical or mental disability so as to be
 34 incapable of operating the vessel safely under the prevailing circumstances.

35 (d) In accordance with ~~any~~ a request ~~duly~~ made by an authorized
 36 official or agency of the United States, any information ~~compiled or~~

1 ~~otherwise~~ available to the Arkansas State Game and Fish Commission pursuant
 2 ~~to~~ under this section shall be transmitted to ~~that~~ the official or agency of
 3 ~~the United States~~ requesting the information.

4 (e) ~~Any~~ A law enforcement agency in the State of Arkansas investigating
 5 a boating collision or accident ~~will~~ shall forward a copy of the completed
 6 accident report to the ~~office~~ Arkansas State Game and Fish Commission Boating
 7 Safety Office within thirty (30) days of the accident.

8 ~~(f)(1) It shall be unlawful for any person involved in a boating~~
 9 ~~accident to purposely leave the scene of the accident without complying with~~
 10 ~~the requirements in subsections (a) and (b) of this section.~~

11 ~~(2) Violation of this subsection shall be punishable with a fine~~
 12 ~~of not less than two hundred fifty dollars (\$250) nor more than five hundred~~
 13 ~~dollars (\$500).~~

14 ~~(3) In the event the accident resulted in grave personal injury~~
 15 ~~or death, violations of this section shall be a Class D felony and upon~~
 16 ~~conviction punished accordingly.~~

17 (f)(1) In addition to any chemical testing required by law, the law
 18 enforcement officer shall use a portable breath-testing instrument to test
 19 the operator of the vessel at the scene of the collision or accident if the
 20 collision or accident results in death or serious physical injury as defined
 21 in § 5-1-102.

22 (2) The breath analysis made by the portable breath-testing
 23 instrument required under subdivision (f)(1) of this section is admissible in
 24 a criminal proceeding, and the failure or inability to obtain an additional
 25 chemical test or tests by a person shall not prevent the admission of the
 26 results obtained by the portable breath-testing instrument.

27 (3) However, subdivision(f)(2) of this section does not limit
 28 the defendant's right during a criminal proceedingto confront the person who
 29 performs the calibration test or check on the portable breath-testing
 30 instrument, the operator of the portable breath-testing instrument, or a
 31 representative of the law enforcement agency.

32 (4) A person who refuses to submit to a breath analysis at the
 33 scene of the collision or accident as required under this subsection upon
 34 conviction is guilty of an unclassified misdemeanor and shall be sentenced to
 35 imprisonment in the county jail for not less than ninety (90) days nor more
 36 than one (1) year.

1 (5) As used in subdivision (f)(2) of this section, "portable
2 breath-testing instrument" means a portable device used to quantify a breath
3 analysis reading.

4 (g) A person who pleads guilty or nolo contendere to or is found
5 guilty of violating subsection (a) or subsection (b) of this section shall be
6 fined no less than five hundred dollars (\$500) nor more than one thousand
7 dollars (\$1,000).

8 (h)(1) A person who violates subsection (a) or subsection (b) of this
9 section upon conviction is guilty of a Class D felony if the offense results
10 in death, or serious physical injury as defined in § 5-1-102.

11 (2) The driver's license of a person convicted under subdivision
12 (h)(1) of this section shall be revoked by the Office of Driver Services.

13
14 SECTION 4. Arkansas Code § 27-101-207(a)(1), concerning the amount of
15 liability insurance required for a motorboat or personal watercraft, is
16 amended to read as follows:

17 ~~(a)(1)(A) It shall be unlawful for the owner of a motorboat of more~~
18 ~~than fifty horsepower (50 hp) or a personal watercraft to allow the operation~~
19 ~~of the motorboat or personal watercraft unless it is covered by a liability~~
20 ~~insurance policy that has been issued by an insurance company.~~

21 ~~(B) The insurance policy must provide at least fifty~~
22 ~~thousand dollars (\$50,000) of liability coverage per occurrence.~~

23 The owner of a motorboat or a personal watercraft shall not allow the
24 operation of the motorboat of more than fifty horsepower (50 hp) or the
25 personal watercraft unless the motorboat or personal watercraft is covered by
26 a liability insurance policy of at least two hundred fifty thousand dollars
27 (\$250,000) per occurrence.

28
29
30
31
32
33
34
35
36