

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

*As Engrossed: H3/17/17*

# A Bill

HOUSE BILL 1873

5 By: Representative L. Fite  
6 *By: Senator Hickey*  
7

## For An Act To Be Entitled

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

15 TO AMEND THE OBLIGATIONS OF AN OPERATOR  
16 OF A VESSEL INVOLVED IN A COLLISION OR  
17 ACCIDENT; AND TO AMEND THE CRIMINAL  
18 PENALTIES.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 5-65-207(b), concerning alcohol testing  
24 devices, is amended to read as follows:

25 (b) A Except as provided in § 27-101-205(f), a breath analysis made by  
26 or through the use of an instrument that does not conform to the requirements  
27 of this section is inadmissible in a criminal or civil proceeding.  
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29 SECTION 2. Arkansas Code § 5-65-402(a)(1)(A), concerning the surrender  
30 of a license or permit, is amended to read as follows:

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

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

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

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

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

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

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

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

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

35 (b)(1) If a collision or accident involving a vessel results in death,  
36 serious physical injury as defined in § 5-1-102 property damage that a

1 reasonable person could estimate to be in excess of two thousand dollars  
2 (\$2,000), or the disappearance of a person from a vessel under circumstances  
3 that indicate serious physical injury or death, the operator of the vessel  
4 shall:

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

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

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

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

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

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

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

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

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

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

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

36 (d) In accordance with ~~any~~ a request ~~duly~~ made by an authorized

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

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

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

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

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

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

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

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

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

1 than one (1) year.

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

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

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

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

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