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2 91st General Assembly
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4

A Bill

SENATE BILL 113

5 By: Senator J. Hutchinson
6

For An Act To Be Entitled

8 AN ACT CONCERNING CRIMINAL OFFENSES AND VIOLATIONS OF
9 THE LAW FOR WHICH AN AVAILABLE PENALTY IS A DRIVER'S
10 LICENSE SUSPENSION OR REVOCATION; TO REMOVE A
11 DRIVER'S LICENSE SUSPENSION OR REVOCATION AS AN
12 AVAILABLE PENALTY FOR OFFENSES NOT RELATED TO DRIVING
13 A MOTOR VEHICLE; AND FOR OTHER PURPOSES.
14
15

Subtitle

16
17 TO REMOVE A DRIVER'S LICENSE SUSPENSION
18 OR REVOCATION AS AN AVAILABLE PENALTY FOR
19 OFFENSES NOT RELATED TO DRIVING A MOTOR
20 VEHICLE.
21
22

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

25 SECTION 1. Arkansas Code § 3-3-203(e), concerning the suspension or
26 revocation of the driving privilege of a person arrested for purchase or
27 possession of alcohol by a minor, is repealed.

28 ~~(e)(1) In addition to the fine authorized by subsection (e) of this~~
29 ~~section, at the time of arrest of a person eighteen (18) years of age or~~
30 ~~older for violation of the provisions of subsection (a) of this section, the~~
31 ~~arrested person shall immediately surrender his or her license, permit, or~~
32 ~~other evidence of driving privilege to the arresting law enforcement officer~~
33 ~~as provided in § 5-65-402.~~

34 ~~(2)(A) The Office of Driver Services or its designated official~~
35 ~~shall suspend or revoke the driving privilege of the arrested person or shall~~
36 ~~suspend any nonresident driving privilege of the arrested person, as provided~~



1 in § 5-65-402.

2 ~~(B) The period of suspension or revocation shall be based~~
3 ~~on the offense that caused the surrender of the arrested person's license,~~
4 ~~permit, or other evidence of driving privilege as described in subdivision~~
5 ~~(c)(1) of this section and the number of any previous offenses as follows:~~

6 ~~(i) Suspension for sixty (60) days for a first~~
7 ~~offense under subsection (a) of this section;~~

8 ~~(ii) Suspension for one hundred twenty (120) days~~
9 ~~for a second offense under subsection (a) of this section; and~~

10 ~~(iii) Suspension for one (1) year for a third or~~
11 ~~subsequent offense under subsection (a) of this section.~~

12 ~~(3) In order to determine the number of previous offenses to~~
13 ~~consider when suspending or revoking the arrested person's driving~~
14 ~~privileges, the office shall consider as a previous offense any conviction~~
15 ~~under subsection (a) of this section which occurred either prior to or after~~
16 ~~August 12, 2005.~~

17
18 SECTION 2. Arkansas Code § 5-27-503(d), concerning the suspension of a
19 minor's driver's license as an additional penalty for violating the offense
20 of possession of fraudulent or altered personal identification document, is
21 repealed.

22 ~~(d)(1) Except for a minor subject to the penalty authorized by § 5-27-~~
23 ~~504, in addition to any penalty authorized by subdivision (c)(1) or (2) of~~
24 ~~this section, at the time of arrest for a violation of subdivision (a)(3) of~~
25 ~~this section, the arrested person shall immediately surrender his or her~~
26 ~~license, permit, or other evidence of driving privilege to the arresting law~~
27 ~~enforcement officer as provided in § 5-65-402.~~

28 ~~(2) The Office of Driver Services or its designated official~~
29 ~~shall suspend or revoke the driving privilege of the arrested person or shall~~
30 ~~suspend any nonresident driving privilege of the arrested person, as provided~~
31 ~~in § 5-65-402.~~

32 ~~(3) The period of suspension or revocation of driving privilege~~
33 ~~of the arrested person shall be based on the number of previous offenses of~~
34 ~~the arrested person as follows:~~

35 ~~(A) Suspension for sixty (60) days for a first offense~~
36 ~~under subdivision (a)(3) of this section;~~

1 filling station, gasoline station, garage, or any other business where motor
 2 fuel is offered for sale at retail, with the ~~intent~~ purpose of depriving the
 3 owner of the motor fuel and not making payment for the motor fuel; or

4 (2) Location owned by a political subdivision or nonprofit
 5 entity whether or not the motor fuel is offered for sale at retail, so as to
 6 cause the automobile or other related vehicle to leave the premises of the
 7 political subdivision or nonprofit entity, with the ~~intent~~ purpose of
 8 depriving the owner of the motor fuel and not making payment for the motor
 9 fuel.

10 (b) Theft of motor fuel is a Class A misdemeanor.

11 ~~(c)(1)(A) In addition to a penalty in subsection (b) of this section,~~
 12 ~~a person who pleads guilty or nolo contendere to or is found guilty of theft~~
 13 ~~of motor fuel shall have his or her driver's license suspended by the court~~
 14 ~~for a period of not more than six (6) months.~~

15 ~~(B) However, if the person's driver's license has~~
 16 ~~previously been suspended for theft of motor fuel, the court shall suspend~~
 17 ~~the person's driver's license for not less than one (1) year.~~

18 ~~(2)(A) The court shall immediately take possession of any~~
 19 ~~suspended driver's license and forward it to the Office of Driver Services.~~

20 ~~(B) The office shall notify the licensee of the suspension~~
 21 ~~and of an opportunity to request a hearing to determine if a restricted~~
 22 ~~permit should be issued during the time of suspension.~~

23 ~~(d)(c)~~ Any service station, filling station, garage, or other location
 24 where motor fuel is offered for sale at retail shall prominently display on
 25 each face of a retail product dispenser a sign that contains the following:
 26 "THEFT OF MOTOR FUEL IS A CLASS A MISDEMEANOR AND CARRIES A MAXIMUM PENALTY
 27 OF ONE (1) YEAR IN JAIL, \$1000 FINE, AND A ONE (1) YEAR SUSPENSION OF YOUR
 28 DRIVER'S LICENSE."

29 ~~(e)(d)~~ As used in this section:

30 (1) "Nonprofit entity" means an organization that is exempt from
 31 income tax under 26 U.S.C. § 501(a); and

32 (2) "Political subdivision" means an agency, department, or
 33 other governing body of the state.

34
 35 SECTION 5. Arkansas Code § 5-64-710 is amended to read as follows:

36 5-64-710. Denial of driving privileges for minor – Restricted permit.

1 ~~(a)(1) As used in this section “drug offense” means the:~~

2 ~~(A) Possession, distribution, manufacture, cultivation,~~
 3 ~~sale, transfer, or the attempt or conspiracy to possess, distribute,~~
 4 ~~manufacture, cultivate, sell, or transfer any substance the possession of~~
 5 ~~which is prohibited under this chapter; or~~

6 ~~(B) Operation of a motor vehicle under the influence of~~
 7 ~~any substance the possession of which is prohibited under this chapter.~~

8 ~~(2) As used in subdivision (a)(1) of this section:~~

9 ~~(A)(i) “Motor vehicle” means any vehicle that is~~
 10 ~~self-propelled by which a person or thing may be transported upon a public~~
 11 ~~highway and is registered in the State of Arkansas or of the type subject to~~
 12 ~~registration in Arkansas.~~

13 ~~(ii) “Motor vehicle” includes any:~~

14 ~~(a) “Motorcycle”, “motor-driven cycle”, or~~
 15 ~~“motorized bicycle”, as defined in § 27-20-101; and~~

16 ~~(b) “Commercial motor vehicle”, as defined in~~
 17 ~~§ 27-23-103; and~~

18 ~~(B) “Substance the possession of which is prohibited under~~
 19 ~~this chapter” or “substance” means a “controlled substance” or “counterfeit~~
 20 ~~substance”, as defined in the Comprehensive Drug Abuse Prevention and Control~~
 21 ~~Act of 1970, 21 U.S.C. § 802.~~

22 ~~(b)(1)(A)(a)(1)(A)~~ When a person who is under eighteen (18) years of
 23 age pleads guilty or nolo contendere to or is found guilty of driving or
 24 boating while intoxicated under the Omnibus DWI or BWI Act, § 5-65-101 et
 25 seq., ~~a criminal offense involving the illegal possession or use of a~~
 26 ~~controlled substance, or any drug offense in this state or any other state,~~
 27 the court having jurisdiction of the matter, ~~including any federal court,~~
 28 shall prepare and transmit to the Department of Finance and Administration an
 29 order of denial of driving privileges for the person under eighteen (18)
 30 years of age.

31 (B) A court within the State of Arkansas shall prepare and
 32 transmit any order under subdivision ~~(b)(1)(A)(a)(1)(A)~~ of this section to
 33 the department within twenty-four (24) hours after the plea or finding.

34 (C) A court outside Arkansas having jurisdiction over any
 35 person holding driving privileges issued by the State of Arkansas shall
 36 prepare and transmit any order under subdivision ~~(b)(1)(A)(a)(1)(A)~~ of this

1 section pursuant to an agreement or arrangement entered into between that
2 state and the Director of the Department of Finance and Administration.

3 (D) An arrangement or agreement under subdivision
4 ~~(b)(1)(C)~~(a)(1)(C) of this section may also provide for the forwarding by the
5 department of an order issued by a court within this state to the state where
6 any person holds driving privileges issued by that state.

7 (2) For any person holding driving privileges issued by the
8 State of Arkansas, a court within this state in a case of extreme and unusual
9 hardship may provide in an order for the issuance of a restricted driving
10 permit to allow driving to and from a place of employment or driving to and
11 from school.

12 ~~(e)(1)(b)(1)~~ Except as provided in subdivision ~~(e)(2)(b)(2)~~ of this
13 section, a penalty prescribed in this section and § 27-16-914 is in addition
14 to any other penalty prescribed by law for an offense covered by this section
15 and § 27-16-914.

16 (2) A juvenile adjudicated delinquent is subject to a juvenile
17 disposition provided in § 9-27-330.

18 ~~(d) In regard to any offense involving illegal possession under this~~
19 ~~section, it is a defense if the controlled substance is the property of an~~
20 ~~adult who owns the motor vehicle.~~

21 ~~(e)(c)~~ If a juvenile is found delinquent for any offense described in
22 ~~subsection (a) or~~ subsection (b) of this section, the circuit court may order
23 any juvenile disposition available under § 9-27-330.

24
25 SECTION 6. Arkansas Code § 5-65-402 is amended to read as follows:

26 5-65-402. Surrender of license or permit to arresting officer.

27 (a)(1)(A) At the time of arrest for violating ~~§ 3-3-203(a), § 5-27-~~
28 ~~503(a)(3),~~ § 5-65-103, § 5-65-205, § 5-65-303, § 5-65-310, § 27-23-114(a)(1),
29 § 27-23-114(a)(2), or § 27-23-114(a)(5), the arrested person shall
30 immediately surrender his or her license, permit, or other evidence of
31 driving privilege to the arresting law enforcement officer.

32 (B) The arresting law enforcement officer shall seize the
33 license, permit, or other evidence of driving privilege surrendered by the
34 arrested person or found on the arrested person during a search.

35 ~~(C)(i) If a juvenile, as defined in the Arkansas Juvenile~~
36 ~~Code of 1989, § 9-27-301 et seq., is arrested for violating § 3-3-203(a) or §~~

1 ~~5-27-503(a)(3), the arresting officer shall issue the juvenile a citation to~~
2 ~~appear for a juvenile intake with a juvenile intake officer.~~

3 ~~(ii) The arresting officer shall forward a copy of~~
4 ~~the citation and the license, permit, or other evidence of the driving~~
5 ~~privilege to the juvenile office before the scheduled juvenile intake.~~

6 ~~(iii) Juveniles subject to the jurisdiction of the~~
7 ~~circuit court under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.,~~
8 ~~shall not be subject to this section, except as provided in this subdivision~~
9 ~~(a)(1).~~

10 (2)(A)(i) If the license, permit, or other evidence of driving
11 privilege seized by the arresting law enforcement officer has not expired and
12 otherwise appears valid to the arresting law enforcement officer, the
13 arresting law enforcement officer shall issue to the arrested person a dated
14 receipt for that license, permit, or other evidence of driving privilege on a
15 form prescribed by the Office of Driver Services.

16 (ii) This receipt shall be recognized as a license
17 and authorizes the arrested person to operate a motor vehicle for a period
18 not to exceed thirty (30) days.

19 (B)(i) The receipt form shall contain and shall constitute
20 a notice of suspension, disqualification, or revocation of driving privileges
21 by the office, effective in thirty (30) days, notice of the right to a
22 hearing within twenty (20) days, and if a hearing is to be requested, as
23 notice that the hearing request is required to be made within seven (7)
24 calendar days of the notice being given.

25 (ii) The receipt form shall also contain phone
26 numbers and the address of the office and inform the driver of the procedure
27 for requesting a hearing.

28 (C) If the office is unable to conduct a hearing within
29 the twenty-day period, a temporary permit shall be issued and is valid until
30 the date of the hearing.

31 (D)(i) The seized license, permit, or other evidence of
32 driving privilege and a copy of the receipt form issued to the arrested
33 person shall be attached to the sworn report of the arresting law enforcement
34 officer and shall be submitted by mail or in person to the office or its
35 designated representative within seven (7) days of the issuance of the
36 receipt.

1 (ii) The failure of the arresting law enforcement
 2 officer to timely file the sworn report does not affect the authority of the
 3 office to suspend, disqualify, or revoke the driving privilege of the
 4 arrested person.

5 (3)(A) Any notice from the office required under this subchapter
 6 that is not personally delivered shall be sent by certified mail and is
 7 deemed to have been delivered on the date when postmarked and shall be sent
 8 to the last known address on file with the office.

9 (B) Refusal of the addressee to accept delivery or
 10 attempted delivery of the notice at the address obtained by the arresting law
 11 enforcement officer or on file with the office does not constitute nonreceipt
 12 of notice.

13 (C) For any notice that is personally delivered, the
 14 person shall be asked to sign a receipt acknowledging that he or she received
 15 the required notice.

16 (4)(A) The office or its designated official shall suspend,
 17 revoke, or disqualify the driving privilege of an arrested person or any
 18 nonresident driving privilege of an arrested person when it receives a sworn
 19 report from the arresting law enforcement officer that he or she had
 20 reasonable grounds to believe the arrested person+

21 ~~(i) Was under twenty one (21) years of age and~~
 22 ~~purchased or was in possession of intoxicating liquor, wine, or beer in~~
 23 ~~violation of § 3-3-203(a);~~

24 ~~(ii) Was under twenty one (21) years of age and~~
 25 ~~attempted to purchase an alcoholic beverage or use a fraudulent or altered~~
 26 ~~personal identification document for the purpose of purchasing an alcoholic~~
 27 ~~beverage illegally or other material or substance restricted to adult~~
 28 ~~purchase or possession under existing law in violation of § 5-27-503(a)(3);~~
 29 ~~or~~

30 ~~(iii) Had had been operating or was in actual~~
 31 physical control of a motorboat on the waters of this state or a motor
 32 vehicle in violation of § 5-65-103, § 5-65-303, § 27-23-114(a)(1), or § 27-
 33 23-114(a)(2) and the sworn report is accompanied by:

34 ~~(a)(i)~~ A written chemical test report or a sworn
 35 report that the arrested person was operating or in actual physical control
 36 of a motorboat on the waters of this state or motor vehicle in violation of §

1 5-65-103, § 5-65-303, or § 27-23-114; or

2 ~~(b)(ii)~~ A sworn report that the arrested person
3 refused to submit to a chemical test of blood, breath, saliva, or urine for
4 the purpose of determining the alcohol concentration or controlled substance
5 content of the arrested person’s breath or blood in violation of § 5-65-205,
6 § 5-65-310, or § 27-23-114(a)(5).

7 (B) The suspension, disqualification, or revocation shall
8 be based as follows:

9 (i) The driving privileges of a person violating §
10 5-65-103 shall be suspended or revoked as provided by § 5-65-104;

11 (ii) The driving privileges of a person violating §
12 5-65-205(a) shall be suspended or revoked as provided by § 5-65-205(b);

13 (iii) The driving privileges of a person violating §
14 5-65-303 shall be suspended or revoked as provided by § 5-65-304(b);

15 (iv) The driving privileges of a person violating §
16 5-65-310(a) shall be suspended or revoked as provided by § 5-65-310(b);

17 (v) The driving privileges of a person violating §
18 27-23-114(a)(1) or § 27-23-114(a)(2) shall be disqualified as provided by §
19 27-23-112; and

20 (vi) The driving privileges of a person violating §
21 27-23-114(a)(5) shall be disqualified as provided by § 27-23-112+.

22 ~~(vii) The driving privileges of a person violating §~~
23 ~~3-3-203(a) shall be suspended, revoked, or disqualified as provided by § 3-3-~~
24 ~~203(e); and~~

25 ~~(viii) The driving privileges of a person violating~~
26 ~~§ 5-27-503(a)(3) shall be suspended, revoked, or disqualified as provided by~~
27 ~~§ 5-27-503(d).~~

28 (5) In addition to any other penalty provided for in this
29 section, if the arrested person is a resident without a license or permit to
30 operate a motor vehicle in this state:

31 (A) The office shall deny to that arrested person the
32 issuance of a license or permit for a period of six (6) months for a first
33 offense; and

34 (B) For a second or subsequent offense by a resident
35 without a license or permit to operate a motor vehicle, the office shall deny
36 to that arrested person the issuance of a license or permit for a period of

1 one (1) year.

2 (6)(A)(i) If the arrested person is a nonresident, the arrested
3 person's driving privilege in Arkansas shall be suspended in the same manner
4 as that of a resident.

5 (ii) The office shall notify the office that issued
6 the nonresident's driving privilege of the action taken by the office.

7 (B) When the arrested person is a nonresident without a
8 license or permit to operate a motor vehicle, the office shall notify the
9 office of issuance for that arrested person's state of residence of action
10 taken by the office.

11 (7)(A) Upon the written request of a person whose driving
12 privilege has been revoked, denied, disqualified, or suspended, or who has
13 received a notice of revocation, suspension, disqualification, or denial by
14 the arresting law enforcement officer, the office shall grant the person an
15 opportunity to be heard if the request is received by the office within seven
16 (7) calendar days after the notice of the revocation, suspension,
17 disqualification, or denial is given in accordance with this section or as
18 otherwise provided in this chapter.

19 (B) A request described in subdivision (a)(7)(A) of this
20 section does not operate to stay the revocation, suspension,
21 disqualification, or denial by the office until the disposition of the
22 hearing.

23 (8)(A) The hearing shall be before the office or its authorized
24 agent, in the office of the Revenue Division of the Department of Finance and
25 Administration nearest the county where the alleged event occurred for which
26 the person was arrested, unless the office or its authorized agent and the
27 arrested person agree otherwise to the hearing's being held in some other
28 county or that the office or its authorized agent may schedule the hearing or
29 any part of the hearing by telephone and conduct the hearing by telephone
30 conference call.

31 (B) The hearing shall not be recorded.

32 (C) At the hearing, the burden of proof is on the state
33 and the decision shall be based on a preponderance of the evidence.

34 (D) The scope of the hearing shall cover the issues of
35 whether the arresting law enforcement officer had reasonable grounds to
36 believe that the person:

1 (i) Had been operating or was in actual physical
 2 control of a motorboat on the waters of this state or a motor vehicle or
 3 commercial motor vehicle while:

4 (a) Intoxicated or impaired;

5 (b) The person's blood alcohol concentration
 6 measured by weight of alcohol in the person's blood was equal to or greater
 7 than the blood alcohol concentration prohibited by § 5-65-103(a)(2);

8 (c) The blood alcohol concentration of a
 9 person under twenty-one (21) years of age was equal to or greater than the
 10 blood alcohol concentration prohibited by § 5-65-303; or

11 (d) The person's blood alcohol concentration
 12 measured by weight of alcohol in the person's blood was equal to or greater
 13 than the blood alcohol concentration prohibited by § 27-23-114; or

14 (ii) Refused to submit to a chemical test of the
 15 blood, breath, saliva, or urine for the purpose of determining the alcohol
 16 concentration or controlled substance contents of the person's breath or
 17 blood and whether the person was placed under arrest;

18 ~~(iii) Was under twenty-one (21) years of age and~~
 19 ~~purchased or was in possession of any intoxicating liquor, wine, or beer; or~~

20 ~~(iv) Was under twenty one (21) years of age and~~
 21 ~~attempted to purchase an alcoholic beverage or use a fraudulent or altered~~
 22 ~~personal identification document for the purpose of purchasing an alcoholic~~
 23 ~~beverage illegally or other material or substance restricted to adult~~
 24 ~~purchase or possession under existing law.~~

25 (E)(i) The office or its agent at the hearing shall
 26 consider any document submitted to the office by the arresting law
 27 enforcement agency, document submitted by the arrested person, and the
 28 statement of the arrested person.

29 (ii) The office shall not have the power to compel
 30 the production of documents or the attendance of witnesses.

31 (F)(i) If the revocation, suspension, disqualification, or
 32 denial is based upon a chemical test result indicating that the arrested
 33 person was intoxicated or impaired and a sworn report from the arresting law
 34 enforcement officer, the scope of the hearing shall also cover the issues as
 35 to whether:

36 (a) The arrested person was advised that his

1 or her privilege to drive would be revoked, disqualified, suspended, or
2 denied if the chemical test result reflected an alcohol concentration equal
3 to or in excess of the amount by weight of blood provided by law or the
4 presence of other intoxicating substances;

5 (b) The breath, blood, saliva, or urine
6 specimen was obtained from the arrested person within the established and
7 certified criteria of the Department of Health;

8 (c) The chemical testing procedure used was in
9 accordance with existing rules; and

10 (d) The chemical test result in fact reflects
11 an alcohol concentration, the presence of other intoxicating substances, or a
12 combination of alcohol concentration or other intoxicating substance.

13 (ii) If the revocation, suspension,
14 disqualification, or denial is based upon the refusal of the arrested person
15 to submit to a chemical test as provided in § 5-65-205, § 5-65-310, or § 27-
16 23-114(a)(5), reflected in a sworn report by the arresting law enforcement
17 officer, the scope of the hearing shall also include whether:

18 (a) The arrested person refused to submit to
19 the chemical test; and

20 (b) The arrested person was informed that his
21 or her privilege to drive would be revoked, disqualified, suspended, or
22 denied if the arrested person refused to submit to the chemical test.

23 (b) After the hearing, the office or its authorized agent shall order
24 the revocation, suspension, disqualification, or denial to be rescinded or
25 sustained and shall then advise any person whose driving privilege is
26 revoked, suspended, or denied that he or she may request a restricted permit
27 as otherwise provided for by this chapter.

28 (c)(1)(A) A person adversely affected by the hearing disposition order
29 of the office or its authorized agent may file a de novo petition for review
30 within thirty (30) days in the circuit court in the county in which the
31 offense took place.

32 (B) A copy of the decision of the office shall be attached
33 to the petition.

34 (C) The petition shall be served on the Director of the
35 Department of Finance and Administration under Rule 4 of the Arkansas Rules
36 of Civil Procedure.

1 (2)(A) The filing of a petition for review does not stay or
2 place in abeyance the decision of the office or its authorized agent.

3 (B) If the circuit court issues an order staying the
4 decision or placing the decision in abeyance, the circuit court shall
5 transmit a copy of the order to the office in the same manner that
6 convictions and orders relating to driving records are sent to that office.

7 (C)(i) The circuit court shall hold a final hearing on the
8 de novo review within one hundred twenty (120) days after the date that the
9 order staying the decision or placing the decision in abeyance is entered.

10 (ii) The circuit court may conduct the final hearing
11 by telephone conference with the consent of the parties.

12 (3) An administrative hearing held under this section is exempt
13 from the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

14 (4)(A) On review, the circuit court shall hear the case de novo
15 in order to determine based on a preponderance of the evidence whether a
16 ground exists for revocation, suspension, disqualification, or denial of the
17 person's privilege to drive.

18 (B) If the results of a chemical test of blood, breath,
19 saliva, or urine are used as evidence in the suspension, revocation, or
20 disqualification of the person's driving privilege, then § 5-65-206 shall
21 apply in the circuit court proceeding.

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

26 (2) Any decision rendered by a court of law for a criminal case
27 arising from any violation of ~~§ 3-3-203(a), § 5-27-503(a)(3)~~, § 5-65-103, §
28 5-65-205, § 5-65-303, § 5-65-310, § 27-23-114(a)(1), § 27-23-114(a)(2), or §
29 27-23-114(a)(5) shall affect the administrative suspension, disqualification,
30 or revocation of the driving privilege as follows:

31 (A) A plea of guilty or nolo contendere or a finding of
32 guilt by the court has no effect on an administrative hearing held under this
33 section;

34 (B)(i) An acquittal on the charges or a dismissal of
35 charges serves to reverse the suspension, disqualification, or revocation of
36 the driving privilege suspended or revoked under this section.

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

6 (C) The office shall convert any initial administrative
7 suspension or revocation of a driving privilege for violating § 5-65-103 to a
8 suspension or revocation for violating § 5-65-303 if the person is convicted
9 of violating § 5-65-303 instead of § 5-65-103.

10 (e) A person whose privilege to drive has been denied, suspended,
11 disqualified, or revoked shall remain under the denial, suspension,
12 disqualification, or revocation and remain subject to penalties as provided
13 in § 5-65-105 until such time as that person applies for, and is granted by
14 the office, reinstatement of the privilege to drive.

15 (f) The administrative suspension, disqualification, or revocation of
16 a driving privilege as provided for by this section is supplementary to and
17 in addition to a suspension, disqualification, or revocation of a driving
18 privilege that is ordered by a court of competent jurisdiction for an offense
19 under ~~§§ 5-64-710, 5-65-116, and~~ § 27-16-914, or other traffic or criminal
20 offense in which a suspension, disqualification, or revocation of the driving
21 privilege is a penalty for the violation.

22 (g)(1)(A) A person whose driving privilege is suspended or revoked
23 under this section shall:

24 (i) Both:

25 (a) Furnish proof of attendance at and
26 completion of the alcoholism treatment program, alcohol education program, or
27 alcohol and driving education program required by § 5-65-104(b)(1) or § 5-65-
28 307(a)(1) and, if applicable, at a victim impact panel as provided in § 5-65-
29 121 before reinstatement of his or her suspended or revoked driving
30 privilege; and

31 (b) Pay a fee for reinstatement required under
32 § 5-65-119, § 5-65-304, or, if applicable, § 5-65-121; or

33 (ii) Furnish proof of dismissal or acquittal of the
34 charge on which the suspension or revocation is based.

35 (B) An application for reinstatement shall be made to the
36 office.

1 (2) Even if a person has filed a de novo petition for review
 2 under subsection (c) of this section, the person is entitled to reinstatement
 3 of driving privileges upon complying with this subsection and is not required
 4 to postpone reinstatement until the disposition of the de novo review in
 5 circuit court has occurred.

6 (3) A person whose driving privilege is suspended or revoked
 7 under this section may enroll in an alcohol education program prior to
 8 disposition of the offense by the circuit court or district court but is not
 9 entitled to a refund of a fee paid if the charge is dismissed or if the
 10 person is acquitted of the charge.

11 (h) Except as provided in subsection (a) of this section, this section
 12 shall not apply to juveniles subject to the Arkansas Juvenile Code of 1989, §
 13 9-27-301 et seq.

14
 15 SECTION 7. Arkansas Code § 5-73-128 is repealed.

16 ~~5-73-128. Offenses upon property of public schools.~~

17 ~~(a)(1) The court shall prepare and transmit to the Department of~~
 18 ~~Finance and Administration an order of denial of driving privileges for a~~
 19 ~~person within twenty-four (24) hours after the plea or finding, if a person~~
 20 ~~who is less than nineteen (19) years of age at the time of the commission of~~
 21 ~~the offense.~~

22 ~~(A) Pleads guilty or nolo contendere to any criminal~~
 23 ~~offense under § 5-73-101 et seq., or the Uniform Machine Gun Act, § 5-73-201~~
 24 ~~et seq., and the plea is accepted by the court, or is found guilty of any~~
 25 ~~eriminal offense under § 5-73-101 et seq., or the Uniform Machine Gun Act, §~~
 26 ~~5-73-201 et seq., if the state proves that the offense was committed upon the~~
 27 ~~property of a public school or in or upon any school bus; or~~

28 ~~(B) Is found by a juvenile division of circuit court to~~
 29 ~~have committed an offense described in subdivision (a)(1)(A) of this section.~~

30 ~~(2) In a case of extreme and unusual hardship, the order may~~
 31 ~~provide for the issuance of a restricted driving permit to allow driving to~~
 32 ~~and from a place of employment or driving to and from school.~~

33 ~~(b) Upon receipt of an order of denial of driving privileges under~~
 34 ~~this section, the department shall suspend the motor vehicle operator's~~
 35 ~~license of the person for not less than twelve (12) months nor more than~~
 36 ~~thirty-six (36) months.~~

1 ~~(c) A penalty prescribed in this section is in addition to any other~~
 2 ~~penalty prescribed by law for an offense covered by this section.~~

3
 4 SECTION 8. Arkansas Code § 6-18-222(b), concerning the revocation of a
 5 person's driving privilege as a penalty for unexcused absences at school, is
 6 repealed.

7 ~~(b)(1)(A) Each public, private, or parochial school shall notify the~~
 8 ~~Department of Finance and Administration whenever a student fourteen (14)~~
 9 ~~years of age or older is no longer in school.~~

10 ~~(B) Each adult education program shall notify the~~
 11 ~~department whenever a student sixteen (16) or seventeen (17) years of age has~~
 12 ~~left the adult education program without receiving a high school equivalency~~
 13 ~~certificate.~~

14 ~~(2)(A) Upon receipt of notification, the department shall notify~~
 15 ~~the licensee by certified mail, return receipt requested, that his or her~~
 16 ~~motor vehicle operator's license will be suspended unless a hearing is~~
 17 ~~requested in writing within thirty (30) days from the date of notice.~~

18 ~~(B) The licensee shall be entitled to retain or regain his~~
 19 ~~or her license by providing the department with adequate evidence that:~~

20 ~~(i) The licensee is eighteen (18) years of age;~~

21 ~~(ii) The licensee is attending school or an adult~~
 22 ~~education program; or~~

23 ~~(iii) The licensee has obtained a high school~~
 24 ~~diploma or its equivalent.~~

25 ~~(C)(i) In cases in which demonstrable financial hardship~~
 26 ~~would result from the suspension of the learner's permit or driver's license,~~
 27 ~~the department may grant exceptions only to the extent necessary to~~
 28 ~~ameliorate the hardship.~~

29 ~~(ii) If it can be demonstrated that the conditions~~
 30 ~~for granting a hardship were fraudulent, the parent, guardian, or person in~~
 31 ~~loco parentis shall be subject to all applicable perjury statutes.~~

32 ~~(3) The department shall have the power to promulgate rules and~~
 33 ~~regulations to carry out the intent of this section and shall distribute to~~
 34 ~~each public, private, and parochial school and each adult education program a~~
 35 ~~copy of all rules and regulations adopted under this section.~~

36

1 SECTION 9. Arkansas Code § 9-14-239 is repealed.

2 ~~9-14-239. Suspension of license for failure to pay child support—~~

3 ~~Definitions.~~

4 ~~(a) As used in this section:~~

5 ~~(1) “Department” means the Department of Finance and~~
6 ~~Administration or its duly authorized agents;~~

7 ~~(2) “License” means an Arkansas driver’s license issued pursuant~~
8 ~~to § 27-16-101 et seq. and § 27-20-101 et seq., or an occupational,~~
9 ~~professional, or business license regulated under Title 17 of this Code and~~
10 ~~all other licenses regulated under Titles 2-6, 8, 9, 14, 15, 20, 22, 23, and~~
11 ~~27 of this Code;~~

12 ~~(3) “Office” means the Office of Child Support Enforcement of~~
13 ~~the Revenue Division of the Department of Finance and Administration;~~

14 ~~(4) “Other licensing entity” means any other state agency,~~
15 ~~department, board, commission, municipality, or any entity within the State~~
16 ~~of Arkansas or the United States that issues or renews an occupational,~~
17 ~~professional, or business license regulated under Title 17 of this Code and~~
18 ~~all other licenses regulated under Titles 2-6, 8, 9, 14, 15, 20, 22, 23, and~~
19 ~~27 of this Code; and~~

20 ~~(5) “Permanent license plate” means the license plate, issued by~~
21 ~~the department, that by law must be affixed to every vehicle as defined by §~~
22 ~~27-14-1002 and every motorized cycle as defined by § 27-20-101.~~

23 ~~(b)(1)(A) Unless an obligor executes an installment agreement or makes~~
24 ~~other necessary and proper arrangements with the office, the office shall~~
25 ~~notify the department or other licensing entity to suspend the license or~~
26 ~~permanent license plate of the obligor whenever the office determines that~~
27 ~~one (1) of the following conditions exists:~~

28 ~~(i) The obligor is delinquent on a court-ordered~~
29 ~~child support payment or an adjudicated arrearage in an amount equal to three~~
30 ~~(3) months’ obligation or more; or~~

31 ~~(ii) The obligor is the subject of an outstanding~~
32 ~~failure to appear warrant, a body attachment, or a bench warrant related to a~~
33 ~~child support proceeding.~~

34 ~~(B) Prior to the notification to suspend the license of~~
35 ~~the obligor, the office shall determine whether the obligor holds a license~~
36 ~~or permanent license plate with the department or other licensing entity.~~

1 ~~(2)(A) The office shall notify the obligor that a request will~~
2 ~~be made to the department to suspend the license or permanent license plate~~
3 ~~sixty (60) days after the notification unless a hearing with the office is~~
4 ~~requested in writing within thirty (30) days to determine whether one (1) of~~
5 ~~the conditions of suspension does not exist.~~

6 ~~(B) Notification shall be sufficient under this~~
7 ~~subdivision (b)(2) if mailed to the obligor at either the last known address~~
8 ~~provided to the court by the obligor pursuant to § 9-14-205 or to the address~~
9 ~~used by the obligor on the license or the application for a permanent license~~
10 ~~plate.~~

11 ~~(c) Following a determination by the office under subdivision (b)(1)~~
12 ~~of this section, the office shall notify the department or other licensing~~
13 ~~entity to suspend the license or permanent license plate of the obligor.~~

14 ~~(d)(1) The department or other licensing entity, upon receipt of the~~
15 ~~notification, shall immediately suspend the license or permanent license~~
16 ~~plate of the obligor.~~

17 ~~(2) This suspension shall remain in effect until the department~~
18 ~~or other licensing entity is notified by the office to release the~~
19 ~~suspension.~~

20 ~~(e)(1) If the obligor enters into an installment agreement or makes~~
21 ~~other necessary and proper arrangements with the office to pay child support,~~
22 ~~the office shall immediately notify the department or other licensing entity~~
23 ~~to restore the license or permanent license plate of the obligor.~~

24 ~~(2) In the case of fraud or mistake, the office shall~~
25 ~~immediately notify the department or other licensing entity to restore the~~
26 ~~license or permanent license plate of the obligor, as appropriate.~~

27 ~~(f) The office and the department are authorized to promulgate rules~~
28 ~~and regulations necessary to carry out this section in the interests of~~
29 ~~justice and equity.~~

30 ~~(g) The office is authorized to seek an injunction in the circuit~~
31 ~~court of the county in which the child support order was entered, restraining~~
32 ~~the obligor from driving or from any licensed or permitted activity during~~
33 ~~the time the obligor's license or permanent license plate is suspended.~~

34 ~~(h)(1)(A) Any obligor whose license or permanent license plate has~~
35 ~~been suspended may appeal to the circuit court of the county in which the~~
36 ~~child support order was entered or transferred, within thirty (30) days after~~

1 ~~the effective date of the suspension, by filing a petition with a copy of the~~
 2 ~~notice of the suspension attached, or with a copy of the final administrative~~
 3 ~~hearing decision of the office, with the clerk of the circuit court and~~
 4 ~~causing a summons to be served on the Administrator of the Office of Child~~
 5 ~~Support Enforcement of the Revenue Division of the Department of Finance and~~
 6 ~~Administration.~~

7 ~~(B) For persons paying child support pursuant to § 9-17-~~
 8 ~~501 or § 9-17-507, the foreign order shall be registered by the office~~
 9 ~~pursuant to § 9-17-601 et seq.~~

10 ~~(2) The case shall be tried de novo.~~

11 ~~(3) The circuit judges are vested with jurisdiction to determine~~
 12 ~~whether the petitioner is entitled to a license or permanent license plate or~~
 13 ~~whether the decision of the hearing officer should be affirmed, modified, or~~
 14 ~~reversed.~~

15 ~~(i) Nothing provided in this section shall be interpreted to prohibit~~
 16 ~~the circuit court from suspending a permanent license plate or a license~~
 17 ~~through contempt proceedings resulting from the nonpayment of child support.~~

18
 19 SECTION 10. Arkansas Code § 9-27-330(a)(15), concerning the available
 20 dispositions available to a juvenile court in a delinquency proceeding, is
 21 repealed.

22 ~~(15)(A) Order the Department of Finance and Administration to~~
 23 ~~suspend the driving privileges of any juvenile adjudicated delinquent.~~

24 ~~(B) The order shall be prepared and transmitted to the~~
 25 ~~Department of Finance and Administration within twenty-four (24) hours after~~
 26 ~~the juvenile has been found delinquent and is sentenced to have his or her~~
 27 ~~driving privileges suspended.~~

28 ~~(C) The court may provide in the order for the issuance of~~
 29 ~~a restricted driving permit to allow driving to and from a place of~~
 30 ~~employment or driving to and from school or for other circumstances.~~

31
 32 SECTION 11. Arkansas Code § 16-13-708 is repealed.

33 ~~16-13-708. Revocation of registration or license.~~

34 ~~(a) The court may certify in writing to the Department of Finance and~~
 35 ~~Administration that a debtor has failed to make satisfactory arrangements for~~
 36 ~~the payment of fines and request the department to revoke, suspend, or refuse~~

1 ~~to renew the debtor's motor vehicle registration or driver's license.~~

2 ~~(b) For driver's license revocation, the court must provide the~~
 3 ~~department with the debtor's full name, social security number, and last~~
 4 ~~known address.~~

5 ~~(c) For motor vehicle registration revocation, the court must provide~~
 6 ~~the department with the debtor's full name and the license plate number or~~
 7 ~~vehicle identification number of the debtor's vehicle.~~

8
 9 SECTION 12. Arkansas Code § 16-17-131 is amended to read as follows:

10 16-17-131. ~~Suspension of license for failure~~ Failure to appear =
 11 Required appearance.

12 ~~(a)~~ A person required to appear before a district court in this state,
 13 having been served with any form of notice to appear for any criminal
 14 offense, traffic violation, or misdemeanor charge, shall appear at the time
 15 and place designated in the notice.

16 ~~(b)(1) If a person fails to appear as required in subsection (a) of~~
 17 ~~this section, the presiding judge may suspend the person's driver's license.~~

18 ~~(2) The license shall be suspended until the person appears and~~
 19 ~~completes the sentence ordered by the court.~~

20 ~~(3) After the person satisfies all requirements of the sentence,~~
 21 ~~the Department of Finance and Administration shall assess the current fees~~
 22 ~~for reinstatement of a driver's license.~~

23
 24 SECTION 13. Arkansas Code § 27-15-305(b)(3), concerning the suspension
 25 of a person's driver's license for a second or subsequent conviction of
 26 providing false information in order to acquire a special license plate to
 27 park in a parking spot designated for an individual with a disability, is
 28 repealed.

29 ~~(3)(A) Upon the second or subsequent conviction, the court shall~~
 30 ~~suspend the driver's license for up to six (6) months.~~

31 ~~(B) The driver may apply to the Office of Driver Services~~
 32 ~~for a restricted license during the period of suspension. The office shall~~
 33 ~~determine the conditions of the restricted license or may deny the request~~
 34 ~~for a restricted license after reviewing the driving record and circumstances~~
 35 ~~of the driver.~~

1 SECTION 14. Arkansas Code § 27-16-915 is repealed.

2 ~~27-16-915.—Suspension for conviction of controlled substances offense~~
 3 ~~—Definitions.~~

4 ~~(a) As used in this section:~~

5 ~~(1) “Drug offense” has the meaning as provided in § 5-64-710;~~

6 ~~(2) “Specialty court” means one (1) of the following:~~

7 ~~(A) A pre-adjudication program under § 5-4-901 et seq.;~~

8 ~~(B) An approved drug court program under the Arkansas Drug~~
 9 ~~Court Act, § 16-98-301 et seq.;~~

10 ~~(C) A probation program under the Swift and Certain~~
 11 ~~Accountability on Probation Pilot Program under § 16-93-1701 et seq.; or~~

12 ~~(D) A specialty court program that has been approved by~~
 13 ~~the Supreme Court, including without limitation a specialty court program~~
 14 ~~known as:~~

15 ~~(i) A DWI court;~~

16 ~~(ii) A mental health court;~~

17 ~~(iii) A veteran’s court;~~

18 ~~(iv) A juvenile drug court;~~

19 ~~(v) A “HOPE” court; or~~

20 ~~(vi) A “smarter sentencing” court.~~

21 ~~(b)(1)(A) When a person is accepted and enrolled in a court-approved~~
 22 ~~pre-adjudication specialty court program for an offense involving the illegal~~
 23 ~~possession or use of a controlled substance, pleads guilty or nolo~~
 24 ~~contendere, or is found guilty of any criminal offense involving the illegal~~
 25 ~~possession or use of controlled substances under the Uniform Controlled~~
 26 ~~Substances Act, § 5-64-101 et seq., or of any drug offense, in this state or~~
 27 ~~any other state, the court having jurisdiction of the matter, including any~~
 28 ~~federal court, shall prepare and transmit to the Department of Finance and~~
 29 ~~Administration an order to suspend the driving privileges of the person for~~
 30 ~~six (6) months, provided the order regarding a person who is a holder of a~~
 31 ~~commercial driver’s license issued under the Arkansas Uniform Commercial~~
 32 ~~Driver License Act, § 27-23-101 et seq., or under the laws of another state~~
 33 ~~shall include the suspension of the driving privileges of that person to~~
 34 ~~drive a commercial motor vehicle, as the term “commercial motor vehicle” is~~
 35 ~~defined in § 27-23-103, or as similarly defined by the laws of any other~~
 36 ~~state, for a period of one (1) year.~~

1 ~~(B) Courts within the State of Arkansas shall prepare and~~
2 ~~transmit to the department an order within twenty four (24) hours after the:~~
3 ~~(i) Plea of guilty or nolo contendere;~~
4 ~~(ii) Finding of guilt; or~~
5 ~~(iii) Acceptance and enrollment in a specialty~~
6 ~~court.~~

7 ~~(C) Courts outside Arkansas having jurisdiction over a~~
8 ~~person holding driving privileges issued by the State of Arkansas shall~~
9 ~~prepare and transmit an order pursuant to an agreement or arrangement entered~~
10 ~~into between that state and the Director of the Department of Finance and~~
11 ~~Administration.~~

12 ~~(D) The agreement or arrangement may also provide for the~~
13 ~~forwarding by the department of an order issued by a court within this state~~
14 ~~to the state where the person holds driving privileges issued by that state.~~

15 ~~(2)(A) For a person holding driving privileges issued by the~~
16 ~~State of Arkansas, a court within the State of Arkansas may provide in an~~
17 ~~order for the issuance of a restricted driving permit to allow driving to and~~
18 ~~from:~~

- 19 ~~(i) A mandatory court appearance;~~
- 20 ~~(ii) A mandatory random drug testing appearance;~~
- 21 ~~(iii) A place of employment or as required in the~~
22 ~~scope of employment;~~
- 23 ~~(iv) A scheduled session or meeting of a support or~~
24 ~~counseling organization;~~
- 25 ~~(v) An educational institution for the purpose of~~
26 ~~attending a class if the person is enrolled in a course of study or program~~
27 ~~of training at the educational institution;~~
- 28 ~~(vi) A treatment program for persons who have~~
29 ~~addiction or abuse problems related to a substance or controlled substances;~~
- 30 ~~(vii) A doctor, hospital, or clinic appointment or~~
31 ~~admission for medical treatment or care for an illness, disease, or other~~
32 ~~medical condition of the person or a family member; or~~
- 33 ~~(viii) Enrollment, compliance, and participation in~~
34 ~~a specialty court program if the person is accepted into a specialty court~~
35 ~~program.~~

36 ~~(B)(i) Courts within the State of Arkansas shall prepare~~

1 ~~and transmit to the department an order for a restricted driving permit~~
 2 ~~issued under this section within three (3) business days after the entry of~~
 3 ~~the order.~~

4 ~~(ii) The department shall transmit to the Arkansas~~
 5 ~~Crime Information Center an order for a restricted driving permit within~~
 6 ~~three (3) business days after receipt of the order from the court.~~

7 ~~(C) The court shall not issue a restricted driving permit~~
 8 ~~under subdivision (b)(2)(A) of this section if the person's driving~~
 9 ~~privileges are subject to:~~

10 ~~(i) A revocation in the State of Arkansas or another~~
 11 ~~state;~~

12 ~~(ii) A suspension wherein a court has prohibited the~~
 13 ~~issuance of a restricted driving permit;~~

14 ~~(iii) A suspension for an offense committed outside~~
 15 ~~of the State of Arkansas where the person is restricted to the use of an~~
 16 ~~ignition interlock device; or~~

17 ~~(iv) A suspension under:~~

18 ~~(a) Section 5-65-104;~~

19 ~~(b) Section 5-65-205;~~

20 ~~(c) Section 5-65-304;~~

21 ~~(d) Section 5-65-310;~~

22 ~~(e) Section 9-14-239;~~

23 ~~(f) Section 27-16-905;~~

24 ~~(g) Section 27-16-907(b)(4)-(6);~~

25 ~~(h) Section 27-16-908;~~

26 ~~(i) Section 27-16-909;~~

27 ~~(j) Section 27-19-610;~~

28 ~~(k) Section 27-19-707, unless the judgment~~
 29 ~~creditor has furnished written consent to allow a restricted driving permit;~~

30 ~~or~~

31 ~~(l) The Arkansas Uniform Commercial Driver~~
 32 ~~License Act, § 27-23-101 et seq.~~

33 ~~(D) The court shall not issue a restricted permit to~~
 34 ~~operate a commercial motor vehicle.~~

35 ~~(e) Upon receipt of an order of denial of driving privileges under~~
 36 ~~this section, the department shall:~~

1 ~~(1) Suspend the driver's license of the person for six (6)~~
2 ~~months;~~

3 ~~(2) In the event the person's driver's license is under~~
4 ~~suspension by the department for another offense or other violations, the~~
5 ~~person's driver's license shall be suspended an additional six (6) months; or~~

6 ~~(3) If the person has not been issued a driver's license, the~~
7 ~~issuance of a license by the department shall be delayed for an additional~~
8 ~~six (6) months after the person applies for a license.~~

9 ~~(d) Upon receipt of an order of denial of driving privileges under~~
10 ~~this section, which order concerns a person who is a holder of a commercial~~
11 ~~driver's license issued under the Arkansas Uniform Commercial Driver License~~
12 ~~Act, § 27-23-101 et seq., the department, in addition to any actions taken~~
13 ~~pursuant to subsection (c) of this section, shall:~~

14 ~~(1) Suspend the commercial driver's license of the person for~~
15 ~~one (1) year;~~

16 ~~(2) In the event the person's commercial driver's license is~~
17 ~~under suspension by the department for another offense or other violations,~~
18 ~~the person's commercial driver's license shall, in addition to any penalties~~
19 ~~provided by the laws of this state, be suspended an additional one (1) year;~~
20 ~~or~~

21 ~~(3) If the person has not been issued a commercial driver's~~
22 ~~license, the issuance of such a license by the department shall be delayed~~
23 ~~for an additional one-year period after the person applies for a license.~~

24 ~~(e) Nothing contained in subsection (d) of this section shall require~~
25 ~~the issuance or reissuance of any commercial driver's license to any person~~
26 ~~following any suspension who is otherwise ineligible pursuant to other laws~~
27 ~~of this state to obtain such issuance or reissuance.~~

28 ~~(f) Penalties prescribed in this section shall be in addition to all~~
29 ~~other penalties prescribed by law for the offenses covered by this section.~~

30
31 SECTION 15. Arkansas Code § 27-23-125 is repealed.

32 ~~27-23-125. Suspension of commercial driver license for delinquent~~
33 ~~child support.~~

34 ~~All types of commercial driver licenses shall be subject to suspension~~
35 ~~for nonpayment of child support under § 9-14-239.~~

36