

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 1422

4  
5 By: Representative Catlett

## For An Act To Be Entitled

6  
7  
8 AN ACT TO AMEND THE STATUTES REGARDING THE SUSPENSION  
9 OR REVOCATION OF A DRIVER'S LICENSE; TO AMEND THE  
10 STATUTE REGARDING THE PENALTIES FOR UNLAWFUL USE OF A  
11 LICENSE; TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER  
12 PURPOSES.

## Subtitle

13  
14  
15  
16 TO AMEND THE STATUTES REGARDING THE  
17 SUSPENSION OR REVOCATION OF A DRIVER'S  
18 LICENSE; TO AMEND THE STATUTE REGARDING  
19 THE PENALTIES FOR UNLAWFUL USE OF A  
20 LICENSE; AND TO MAKE TECHNICAL  
21 CORRECTIONS.

22  
23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25  
26 SECTION 1. Arkansas Code § 27-16-302 is amended to read as follows:

27 27-16-302. Unlawful use of license.

28 (a) It is a misdemeanor for ~~any~~ a person:

29 (1) To display, or cause or permit to be displayed, or have in  
30 ~~his or her~~ the person's possession ~~any cancelled~~ a canceled, revoked,  
31 suspended, fictitious, or fraudulently altered driver's license;

32 (2) To knowingly assist or permit ~~any other~~ another person to  
33 apply for or obtain through fraudulent application or other illegal means ~~any~~  
34 an Arkansas driver's license;

35 (3) To lend ~~his~~ the person's driver's license to ~~any other~~  
36 another person or knowingly permit its use by another;



1 (4) To display or represent as one's own ~~any a~~ a driver's license  
2 not issued to ~~him or her~~ the person;

3 (5) To fail or refuse to surrender to the Office of Driver  
4 Services, upon its lawful demand, ~~any a~~ a driver's license ~~which that~~ that has been  
5 suspended, revoked, or ~~cancelled~~  canceled;

6 (6) To use a false or fictitious name in ~~any an~~ an application for  
7 a driver's license, ~~or~~ to knowingly make a false statement, or to knowingly  
8 conceal a material fact or otherwise commit a fraud in ~~any an~~ an application;

9 (7) To permit ~~any an~~ an unlawful use of a driver's license issued  
10 to ~~him or her~~ the person; or

11 (8) To do ~~any an~~ an act forbidden or fail to perform ~~any an~~ an act  
12 required by this act.

13 (b) The court in which a person is convicted under subsection (a) of  
14 this section shall send to the Office of Driver Services a record of the  
15 conviction within ten (10) days of the filing of the conviction with the  
16 court clerk.

17  
18 SECTION 2. Arkansas Code § 27-16-508(a), concerning the fee for  
19 reinstating a driver's license, is amended to read as follows:

20 (a) The Office of Driver Services shall collect a reinstatement fee of  
21 one hundred dollars (\$100) to be multiplied by the number of administrative  
22 orders to suspend, revoke, or cancel a driver's license, other than orders  
23 eligible for reinstatement under § 27-16-808, § 5-65-119, § 5-65-304, or § 5-  
24 65-310 and other than orders entered under ~~§ 27-16-907(a)(5)~~ § 27-16-909.

25  
26 SECTION 3. Arkansas Code § 27-16-903(a)(2), concerning the authority  
27 of the Office of Driver Services to cancel licenses, is amended to read as  
28 follows:

29 (2) The decision to suspend or revoke the original license of  
30 the licensee shall be made in accordance with the provisions of §§ 27-16-907  
31 ~~and 27-16-912~~.

32  
33 SECTION 4. Arkansas Code § 27-16-906 is repealed.

34 ~~27-16-906. Conviction in another state.~~

35 ~~The Office of Driver Services is authorized to suspend or revoke the~~  
36 ~~license of any resident of this state or the privilege of a nonresident to~~

1 ~~drive a motor vehicle in this state upon receiving notice of the conviction~~  
 2 ~~of the person in another state of an offense therein which, if committed in~~  
 3 ~~this state, would be grounds for the suspension or revocation of the license~~  
 4 ~~of any driver.~~

5  
 6 SECTION 5. Arkansas Code § 27-16-907 is amended to read as follows:

7 27-16-907. Suspension or revocation of licenses.

8 (a) The Office of Driver Services ~~is authorized to~~ may suspend the  
 9 license of ~~any a~~ driver ~~after a hearing~~ for up to one (1) year upon a showing  
 10 by its records or other sufficient evidence that the licensee ~~is an habitual~~  
 11 violator of the traffic laws.

12 ~~(1) Has been convicted of an offense for which mandatory~~  
 13 ~~revocation of the license is required;~~

14 ~~(2) Has been involved as a driver in any accident resulting in~~  
 15 ~~the death or personal injury of another or in serious property damage;~~

16 ~~(3) Is an habitually reckless or negligent driver of a motor~~  
 17 ~~vehicle;~~

18 ~~(4) Is an habitual violator of the traffic laws;~~

19 ~~(5) Is incompetent to drive a motor vehicle;~~

20 ~~(6) Has permitted an unlawful or fraudulent use of his or her~~  
 21 ~~license;~~

22 ~~(7) Has committed an offense in another state which if committed~~  
 23 ~~in this state would be grounds for suspension or revocation;~~

24 ~~(8) Is receiving any type of welfare, tax, or other benefit or~~  
 25 ~~exemption as a blind or nearly blind person if the correctable vision of the~~  
 26 ~~person is less than 20/50 in the better eye or if the total visual field of~~  
 27 ~~the person is less than one hundred five degrees (105°);~~

28 ~~(9) Is any person who is not lawfully within the United States;~~

29 ~~(10) Was found by the office or its agent to have used or~~  
 30 ~~attempted to use a driver's license or identification card issued under § 27-~~  
 31 ~~16-805 that was fraudulent, counterfeit, or altered; or~~

32 ~~(11) Was found by the office or its agent to have used or~~  
 33 ~~attempted to use the driver's license or identification card of another~~  
 34 ~~person by representing it as his or her own license or identification card~~  
 35 ~~issued under § 27-16-805.~~

36 (b) The office may suspend the license of a driver for one (1) year

1 upon a showing by its records or other sufficient evidence that the licensee:

2 (1) Has been involved as a driver in an accident resulting in  
3 the death or personal injury of another or in serious property damage;

4 (2) Is an habitually reckless or negligent driver of a motor  
5 vehicle;

6 (3) Has permitted an unlawful or fraudulent use of the  
7 licensee's license;

8 (4) Has been convicted of an offense in another state that if  
9 committed in this state would be grounds for suspension;

10 (5) Is receiving any type of welfare, tax, or other benefit or  
11 exemption as a blind or nearly blind person, if the correctable vision of the  
12 person is less than 20/50 in at least one (1) eye or if the total visual  
13 field of the person is less than one hundred five degrees (105°);

14 (6) Was found by the office or its agent to have committed fraud  
15 in making an application for a driver's license or identification card issued  
16 under § 27-16-805;

17 (7) Was found by the office or its agent to have used or  
18 attempted to use a driver's license or identification card issued under § 27-  
19 16-805 that was fraudulent, counterfeit, or altered; or

20 (8) Was found by the office or its agent to have used or  
21 attempted to use the driver's license or identification card of another  
22 person by representing it as the licensee's own license or identification  
23 card issued under § 27-16-805.

24 (c) The office may revoke the license of a driver upon a showing by  
25 its records or other sufficient evidence that the licensee:

26 (1) Has been convicted of an offense in another state that if  
27 committed in this state would be grounds for revocation; or

28 (2)(A) Is a person who is not lawfully present within the United  
29 States.

30 (B) The office shall not grant a new application for a  
31 license to a driver revoked under subdivision (c)(2)(A) of this section  
32 unless the driver demonstrates to the office that the driver is lawfully  
33 present within the United States.

34 (C) Notwithstanding the provisions of § 27-16-912, a  
35 driver whose license is revoked for failure to demonstrate legal presence may  
36 apply for a new license at any time during the year following revocation if

1 the driver is able to demonstrate lawful presence at the time of the  
 2 application for a new license.

3 ~~(b)~~ (d) The office ~~is authorized to~~ may secure from all state agencies  
 4 involved the necessary information to comply with ~~the provisions of~~ this  
 5 section.

6 ~~(e)~~ (e)(1) Upon ~~denial, the~~ suspension, or revocation of the license  
 7 of ~~any a~~ a person ~~as authorized~~ under this section, the office shall notify the  
 8 licensee in writing.

9 (2) Any licensee desiring a hearing shall notify the office in  
 10 writing within twenty (20) days after receipt of the ~~denial, notice of~~  
 11 suspension, or revocation.

12 (3)(A) A hearing officer appointed by the Director of the  
 13 Department of Finance and Administration shall schedule a hearing in an  
 14 office of the Revenue Division of the Department of Finance and  
 15 Administration designated by the director for such hearings.

16 (B) The hearing shall be in the office in the county of  
 17 residence of the licensee unless the director and licensee agree to another  
 18 location for the hearing or agree that the hearing shall be held by telephone  
 19 conference call.

20 (4) Based upon the evidence presented at the hearing, the  
 21 hearing officer shall modify, rescind, or affirm the ~~denial, suspension, or~~  
 22 revocation of the license.

23 ~~(d)~~ (f) Hearings conducted by the office under this section shall not  
 24 be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

25 (g) The director may promulgate rules and regulations for the  
 26 administration of this section.

27  
 28 SECTION 6. Arkansas Code § 27-16-909 is amended to read as follows:

29 27-16-909. ~~Examination may be required~~ Suspension or revocation of  
 30 license for inability to drive.

31 (a)(1) The Office of Driver Services, having good cause to believe  
 32 that a licensed driver is incompetent or otherwise not qualified to be  
 33 licensed, may, upon written notice of at least five (5) days to the licensee,  
 34 require ~~him or her~~ the licensee to submit to an ~~examination~~ initial  
 35 evaluation by a hearing officer appointed by the Director of the Department  
 36 of Finance and Administration in an office of the Revenue Division of the

1 Department of Finance and Administration designated by the director.

2 (2)(A) Upon the conclusion of the initial evaluation, the  
3 hearing officer shall determine:

4 (i) That the initial evaluation does not support the  
5 suspension or revocation of the license and that the license shall remain in  
6 effect; or

7 (ii) That the driver must submit to a medical  
8 evaluation, a driving skills evaluation, or both a medical evaluation and a  
9 driving skills evaluation.

10 (B) If the hearing officer determines that the driver must  
11 submit to a medical evaluation, driving skills evaluation, or both a medical  
12 evaluation and a driving skills evaluation, the driver shall provide proof of  
13 completion of the evaluation or evaluations to the hearing officer within  
14 thirty (30) days of the initial evaluation.

15 (C) Refusal or neglect of the licensee to submit to, and  
16 provide proof of completion of, an evaluation required under this section is  
17 grounds for suspension or revocation of the licensee's license.

18 ~~Upon the conclusion of the examination~~ Upon receipt by the office  
19 of evaluations required under subsection (a) of this section, the office  
20 ~~shall take action as may be appropriate and~~ may suspend or revoke the license  
21 of the person or may permit him or her the person to retain his or her  
22 license or may issue a license subject to restrictions as permitted under §  
23 27-16-804.

24 ~~(c) Refusal or neglect of the licensee to submit to such examination~~  
25 ~~shall be grounds for suspension or revocation of his or her license.~~

26 (c)(1) The office shall notify the licensee in writing of the  
27 suspension or revocation of the driver's license as authorized under this  
28 section.

29 (2) Any licensee desiring a hearing shall notify the office in  
30 writing within twenty (20) days after receipt of the notice of suspension or  
31 revocation.

32 (3)(A) A hearing officer appointed by the director shall  
33 schedule a hearing in an office of the revenue division designated by the  
34 director for hearings under this section.

35 (B) The hearing shall be in the office in the county of  
36 residence of the licensee unless the director and licensee agree to another

1 location for the hearing or agree that the hearing shall be held by telephone  
 2 conference call.

3 (4) Based upon the evidence presented at the hearing, the  
 4 hearing officer shall modify, rescind, or affirm the suspension or revocation  
 5 of the license.

6 (5) Hearings conducted by the office under this section are not  
 7 subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

8 (d)(1) The office shall not reinstate the license of a person  
 9 suspended under this section unless the driver demonstrates to the office  
 10 that the driver is competent to operate a motor vehicle.

11 (2) The office shall not grant an application for a new license  
 12 to a driver whose license has been revoked under this section unless the  
 13 driver demonstrates to the office that the driver is competent to operate a  
 14 motor vehicle.

15 (e) The director may promulgate rules and regulations for the orderly  
 16 and efficient administration of this section.

17  
 18 SECTION 7. Arkansas Code § 27-16-912 is amended to read as follows:

19 27-16-912. ~~Period of suspension or revocation~~ Application for new  
 20 license following revocation.

21 ~~The Office of Driver Services shall not suspend a license for a period~~  
 22 ~~of more than one (1) year and upon revoking a license~~ Except as provided in §  
 23 27-16-907(c)(2)(C), the Office of Driver Services shall not in any event  
 24 grant a person's application for a new license until the expiration of one  
 25 (1) year after the revocation of the person's license.

26  
 27 SECTION 8. Arkansas Code § 27-16-913 is amended to read as follows:

28 27-16-913. Right of appeal to court of record.

29 (a)(1) ~~Any~~ A person denied a license or whose license has been  
 30 suspended, disqualified, or revoked by the Office of Driver Services, within  
 31 thirty (30) days of receipt of the decision by the office to deny, suspend,  
 32 disqualify, or revoke the license, may file a de novo petition of review in  
 33 the Pulaski County Circuit Court or the circuit court in the county where the  
 34 licensee or interested person resides.

35 (2) A copy of the decision of the office shall be attached to  
 36 the petition.

1           (3) A copy of the petition shall be served upon the Director of  
2 the Department of Finance and Administration in accordance with the Arkansas  
3 Rules of Civil Procedure.

4           (4) A de novo petition to circuit court for review of a decision  
5 concerning a license under this section is not subject to the Arkansas  
6 Administrative Procedure Act, § 25-15-201 et seq.

7           (b) The filing of a petition of review shall not operate as an  
8 automatic stay of the decision of the hearing officer.

9           ~~(c) A determination shall be made by the circuit judge on the issue of~~  
10 ~~whether a stay should be granted.~~ If a court issues an order staying the  
11 decision or placing the decision in abeyance, the court shall transmit a copy  
12 of the order to the office in the same manner that convictions and orders  
13 relating to driving records are sent to the office under § 27-16-302.

14           (d)(1) The circuit judge is vested with jurisdiction to determine  
15 whether the petitioner is entitled to a license or whether the decision of  
16 the hearing officer should be affirmed, modified, or reversed.

17           (2) At the hearing, the burden of proof is on the state, and the  
18 decision shall be based on a preponderance of the evidence.

19  
20           SECTION 9. Arkansas Code § 5-36-120(c)(1)(A), concerning theft of  
21 motor fuel, is amended to read as follows:

22           (c)(1)(A) In addition to a penalty in subsection (b) of this section,  
23 a person who pleads guilty or nolo contendere to or is found guilty of theft  
24 of motor fuel shall have his or her driver's license suspended by the court  
25 ~~under § 27-16-907(a)~~ for a period of not more than six (6) months.

26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36