

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 783

5 By: Senator J. Key
6 By: Representative Hopper
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For An Act To Be Entitled

9 AN ACT TO REQUIRE AN ADMINISTRATIVE SUSPENSION OF A
10 PERSON'S DRIVER'S LICENSE IF HE OR SHE IS ARRESTED
11 FOR OR CONVICTED OF NEGLIGENT HOMICIDE RESULTING FROM
12 DRIVING WHILE INTOXICATED; AND FOR OTHER PURPOSES.
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Subtitle

15 TO REQUIRE AN ADMINISTRATIVE SUSPENSION
16 OF A PERSON'S DRIVER'S LICENSE IF HE OR
17 SHE IS ARRESTED FOR OR CONVICTED OF
18 NEGLIGENT HOMICIDE RESULTING FROM DRIVING
19 WHILE INTOXICATED.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 5-10-105, concerning negligent homicide, is
26 amended to add an additional subsection to read as follows:

27 (d) A person who violates subdivision (a)(1)(A) or (B) of this section
28 is subject to the seizure by law enforcement and administration suspension
29 and revocation of his or her driver's license under §§ 5-65-104 and 5-65-402.
30

31 SECTION 2. Arkansas Code § 5-65-104(a)(1), concerning the seizure,
32 suspension, and revocation of license, issuance of temporary permits, and
33 ignition interlock restricted licenses, is amended to read as follows:

34 (a)(1)(A) At the time of arrest for operating or being in actual
35 physical control of a motor vehicle while intoxicated or while there was an
36 alcohol concentration of eight hundredths (0.08) or more in the person's



1 breath or blood, as provided in § 5-65-103, the arrested person shall
 2 immediately surrender his or her license, permit, or other evidence of
 3 driving privilege to the arresting law enforcement officer as provided in §
 4 5-65-402.

5 (B) At the time of arrest for negligent homicide under §
 6 5-10-105(a)(1)(A) or (B), the arrested person shall immediately surrender his
 7 or her license, permit, or other evidence of driving privilege to the
 8 arresting law enforcement officer as provided in § 5-65-402.

9
 10 SECTION 3. Arkansas Code § 5-65-104(a)(2)(A), regarding the seizure,
 11 suspension, and revocation of license, issuance of temporary permits, and
 12 ignition interlock restricted licenses, is amended to add an additional
 13 subdivision to read as follows:

14 (iii)(a) Suspension for six (6) months for the first
 15 offense of negligent homicide under § 5-10-105(a)(1)(A) or (B).

16 (b) However, if the office allows the issuance
 17 of an ignition interlock restricted license under § 5-65-118, the suspension
 18 period for which no restricted license is available is a minimum of forty-
 19 five (45) days, followed by restricted driving privileges to allow driving in
 20 any of the following situations:

21 (1) To and from his or her employment;

22 (2) To and from an educational
 23 institution to attend class at the educational institution;

24 (3) To and from an alcohol safety
 25 education and treatment course for drunk drivers; or

26 (4) To and from an ignition interlock
 27 service;

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 29 SECTION 4. Arkansas Code § 5-65-104(a)(2)(B), regarding the seizure,
 30 suspension, and revocation of license, issuance of temporary permits, and
 31 ignition interlock restricted licenses, is amended to add an additional
 32 subdivision to read as follows:

33 (iv)(a) Suspension for twenty-four (24) months for a
 34 second offense of negligent homicide under § 5-10-105(a)(1)(A) or (B) within
 35 five (5) years of the first offense.

36 (b) However, if the office allows the issuance

1 of an ignition interlock restricted license under § 5-65-118, the suspension
2 period for which no restricted license is available is a minimum of forty-
3 five (45) days, followed by restricted driving privileges to allow driving in
4 any of the following situations:

5 (1) To and from his or her employment;

6 (2) To and from an educational
7 institution to attend class at the educational institution;

8 (3) To and from an alcohol safety
9 education and treatment course for drunk drivers; or

10 (4) To and from an ignition interlock
11 service;

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13 SECTION 5. Arkansas Code § 5-65-104(a)(2)(C), regarding the seizure,
14 suspension, and revocation of license, issuance of temporary permits, and
15 ignition interlock restricted licenses, is amended to add an additional
16 subdivision to read as follows:

17 (iv)(a) Suspension for thirty (30) months for the
18 third offense of negligent homicide under § 5-10-105(a)(1)(A) or (B) within
19 five (5) years of the first offense.

20 (b) However, if the office allows the issuance
21 of an ignition interlock restricted license under § 5-65-118, the suspension
22 period for which no restricted license is available is a minimum of forty-
23 five (45) days, followed by restricted driving privileges to allow driving in
24 any of the following situations:

25 (1) To and from his or her employment;

26 (2) To and from an educational
27 institution to attend class at the education institution;

28 (3) To and from an alcohol safety
29 education and treatment course for drunk drivers; or

30 (4) To and from an ignition interlock
31 service; and

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33 SECTION 6. Arkansas Code § 5-65-104(a)(2)(D), regarding the seizure,
34 suspension, and revocation of license, issuance of temporary permits, and
35 ignition interlock restricted licenses, is amended to read as follows:

36 (D)(i) Revocation for four (4) years, during which no

1 restricted permits may be issued, for the fourth or subsequent offense of
 2 operating or being in actual physical control of a motor vehicle while
 3 intoxicated or while there was an alcohol concentration of eight hundredths
 4 (0.08) or more by weight of alcohol in the person's blood or breath, § 5-65-
 5 103, within five (5) years of the first offense.

6 (ii) Revocation for four (4) years during which no
 7 restricted permits may be issued for the fourth or subsequent offense of
 8 negligent homicide under § 5-10-105(a)(1)(A) or (B) within five (5) years of
 9 the first offense.

10
 11 SECTION 7. Arkansas Code § 5-65-104(a)(3), regarding the seizure,
 12 suspension, and revocation of license, issuance of temporary permits, and
 13 ignition interlock restricted licenses, is amended to add an additional
 14 subdivision to read as follows:

15 (3) If a person is a resident who is convicted of driving
 16 without a license or permit to operate a motor vehicle and the underlying
 17 basis for the suspension, revocation, or restriction of the license was for a
 18 violation of § 5-65-103 or for negligent homicide under § 5-10-105(a)(1)(A)
 19 or (B), in addition to any other penalties provided for under law, the office
 20 may restrict the offender to only an ignition interlock restricted license
 21 for a period of one (1) year prior to the reinstatement or reissuance of a
 22 license or permit after the person would otherwise be eligible for
 23 reinstatement or reissuance of the person's license.

24
 25 SECTION 8. Arkansas Code § 5-65-104(a)(4), regarding the seizure,
 26 suspension, and revocation of license, issuance of temporary permits, and
 27 ignition interlock restricted licenses, is amended to add an additional
 28 subdivision to read as follows:

29 (4) In order to determine the number of previous offenses to
 30 consider when suspending or revoking the arrested person's driving
 31 privileges, the office shall consider as a previous offense any of the
 32 following that occurred within the five (5) years immediately before the
 33 current offense:

34 (A) ~~Any~~ A conviction for an offense of operating or being
 35 in actual physical control of a motor vehicle while intoxicated or while
 36 there was an alcohol concentration of eight hundredths (0.08) or more in the

1 person's breath or blood, ~~including a violation of § 5-10-105(a)(1)(A) or~~
2 ~~(B), that occurred:~~

- 3 (i) In Arkansas; or
- 4 (ii) In another state;

5 (B) ~~Any~~ A suspension or revocation of driving privileges
6 for an arrest for operating or being in actual physical control of a motor
7 vehicle while intoxicated or while there was an alcohol concentration of
8 eight hundredths (0.08) or more in the person's breath or blood under § 5-65-
9 103, when the person was not subsequently acquitted of the criminal charges;
10 ~~or~~

11 (C) ~~Any~~ A conviction under § 5-76-102 for an offense of
12 operating a motorboat on the waters of this state while intoxicated or while
13 there was an alcohol concentration in the person's breath or blood of eight
14 hundredths (0.08) or more based upon the definition of breath, blood, and
15 urine concentration in § 5-65-204 or refusing to submit to a chemical test
16 under § 5-76-104 occurring on or after July 31, 2007, when the person was not
17 subsequently acquitted of the criminal charges;

18 (D) A suspension or revocation of driving privileges for
19 an arrest for negligent homicide under § 5-10-105(a)(1)(A) or (B); or

20 (E) A conviction for negligent homicide under § 5-10-
21 105(a)(1)(A) or (B).

22
23 SECTION 9. Arkansas Code § 5-65-104(b)(1)(B), regarding the seizure,
24 suspension, and revocation of license, issuance of temporary permits, and
25 ignition interlock restricted licenses, is amended to add an additional
26 subdivision to read as follows:

27 (B) If during the period of suspension or revocation under
28 subdivision (b)(1)(A) of this section the person commits an additional
29 violation of § 5-65-103 or negligent homicide under § 5-10-105(a)(1)(A) or
30 (B), he or she is also required to complete an approved alcohol education
31 program or alcohol treatment program for each additional violation, unless:

- 32 (i) The additional charges are dismissed; or
- 33 (ii) He or she is acquitted of the additional

34 charges.

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36 SECTION 10. Arkansas Code § 5-65-402(a)(1)(A), concerning the

1 surrender of a license or permit to arresting officer, is amended to read as
 2 follows:

3 (a)(1)(A) At the time of arrest for violating § 3-3-203(a), § 5-10-
 4 105(a)(1)(A) or (B), § 5-27-503(a)(3), § 5-65-103, § 5-65-205, § 5-65-303, §
 5 5-65-310, § 27-23-114(a)(1), § 27-23-114(a)(2), or § 27-23-114(a)(5), the
 6 arrested person shall immediately surrender his or her license, permit, or
 7 other evidence of driving privilege to the arresting law enforcement officer.

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 9 SECTION 11. Arkansas Code § 5-65-402(a)(4)(A), concerning the
 10 surrender of a license or permit to arresting officer, is amended to add an
 11 additional subdivision to read as follows:

12 (iv) Has been arrested for negligent homicide under
 13 § 5-10-105(a)(1)(A) or (B).

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 15 SECTION 12. Arkansas Code § 5-65-402(a)(4)(B)(i), concerning the
 16 surrender of a license or permit to arresting officer, is amended to add an
 17 additional subdivision to read as follows:

18 (i) The driving privileges of ~~any person violating a~~
 19 person who violates § 5-10-105(a)(1)(A) or (B) or § 5-65-103 shall be
 20 suspended or revoked as provided by § 5-65-104;

21
 22 SECTION 13. Arkansas Code § 5-65-402(a)(8)(D)(i), concerning the
 23 surrender of a license or permit to arresting officer, is amended to add an
 24 additional subdivision to read as follows:

25 (e) The person committed negligent homicide
 26 under § 5-10-105(a)(1)(A) or (B);

27
 28 SECTION 14. Arkansas Code § 5-65-402(d), concerning the surrender of a
 29 license or permit to arresting officer, is amended to add an additional
 30 subdivision to read as follows:

31 (d)(1) ~~Any~~ A decision rendered at an administrative hearing held under
 32 this section shall have no effect on any criminal case arising from any
 33 violation of § 3-3-203(a), § 5-10-105(a)(1)(A) or (B), § 5-27-503(a)(3), § 5-
 34 65-103, § 5-65-205, § 5-65-303, § 5-65-310, § 27-23-114(a)(1), § 27-23-
 35 114(a)(2), or § 27-23-114(a)(5).

36 (2) ~~Any~~ A decision rendered by a court of law for a criminal

1 case arising from any violation of § 3-3-203(a), § 5-27-503(a)(3), § 5-10-
2 105(a)(1)(A) or (B), § 5-65-103, § 5-65-205, § 5-65-303, § 5-65-310, § 27-23-
3 114(a)(1), § 27-23-114(a)(2), or § 27-23-114(a)(5) shall affect the
4 administrative suspension, disqualification, or revocation of the driver's
5 license as follows:

6 (A) A plea of guilty or nolo contendere or a finding of
7 guilt by the court has no effect on ~~any~~ an administrative hearing held under
8 this section;

9 (B)(i) An acquittal on the charges or a dismissal of
10 charges serves to reverse the suspension, disqualification, or revocation of
11 the driver's license suspended or revoked under this section.

12 (ii) The office shall reinstate the person's
13 driver's license at no cost to the person, and the charges shall not be used
14 to determine the number of previous offenses when administratively
15 suspending, disqualifying, or revoking the driving privilege of ~~any~~ an
16 arrested person in the future; and

17 (C) The office shall convert ~~any~~ an initial administrative
18 suspension or revocation of a driver's license for violating § 5-65-103 to a
19 suspension or revocation for violating § 5-65-303, if the person is convicted
20 of violating § 5-65-303 instead of § 5-65-103.

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