

Stricken language would be deleted from and underlined language would be added to present law.  
Act 1094 of the Regular Session

1 State of Arkansas As Engrossed: H3/20/17 S3/30/17  
2 91st General Assembly **A Bill**  
3 Regular Session, 2017

HOUSE BILL 1268

4  
5 By: Representative Murdock  
6

7 **For An Act To Be Entitled**

8 AN ACT CONCERNING THE USE OF AN IGNITION INTERLOCK  
9 DEVICE; AND FOR OTHER PURPOSES.

10  
11  
12 **Subtitle**

13 CONCERNING THE USE OF AN IGNITION  
14 INTERLOCK DEVICE.  
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 *SECTION 1. Arkansas Code § 5-65-104(a)(2)(D), concerning the*  
20 *revocation of a person's driver's license for a fourth or subsequent*  
21 *conviction for driving or boating while intoxicated, is amended to read as*  
22 *follows:*

23 *(D)(i) Revocation for four (4) years, during which no*  
24 *restricted permits may be issued, for the fourth or subsequent offense of*  
25 *operating or being in actual physical control of a motor vehicle or motorboat*  
26 *while intoxicated or while there was an alcohol concentration of eight*  
27 *hundredths (0.08) or more by weight of alcohol in the person's blood or*  
28 *breath, § 5-65-103, within five (5) years of the first offense.*

29 *(ii) A person whose driver's license is revoked*  
30 *under this subdivision (a)(2)(D) is required to install a functioning*  
31 *ignition interlock device on his or her motor vehicle under § 5-65-*  
32 *118(a)(1)(B) if the person regains his or her driver's license.*  
33

34 *SECTION 2. Arkansas Code § 5-65-118(a)(1)(A)(i), concerning the use of*  
35 *an ignition interlock device, is amended to read as follows:*

36 *(a)(1)(A)(i) The Except as provided under subsection (g) of this*



1 section, the Office of Driver Services shall place a restriction on a person  
2 who has violated § 5-65-103 for a first or second offense that requires the  
3 person's motor vehicle to be equipped with a functioning ignition interlock  
4 device in addition to any other penalty authorized by this chapter.

5  
6 SECTION 3. Arkansas Code § 5-65-118, concerning the use of an ignition  
7 interlock device, is amended to add an additional subsection to read as  
8 follows:

9 (g)(1) A person who has violated § 5-65-103 for a first offense that  
10 requires the person's motor vehicle to be equipped with a functioning  
11 ignition interlock device under this section may petition the court with  
12 jurisdiction for a waiver of the requirement to install a functioning  
13 interlock device under this section.

14 (2) The court with jurisdiction may waive the requirement to  
15 install a functioning interlock device under this section under the following  
16 conditions:

17 (A) The person is required to operate an employer's motor  
18 vehicle in the course and scope of employment and the business entity that  
19 owns the vehicle is not owned or controlled by the person;

20 (B) The person is certified by a medical doctor as being  
21 unable to provide a deep lung breath sample for analysis by an ignition  
22 interlock device; or

23 (C) A state-certified ignition interlock provider is not  
24 available within one hundred (100) miles of the person's residence.

25 (3) Upon finding that a condition under subdivision (g)(2) of  
26 this section is present, the court with jurisdiction shall enter an order to  
27 that effect and transmit the order to the office for compliance.

28  
29 /s/Murdock

30  
31  
32 APPROVED: 04/07/2017

**Hall of the House of Representatives**  
91st General Assembly - Regular Session, 2017  
**Amendment Form**

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Subtitle of House Bill No. 1268

CONCERNING THE USE OF AN IGNITION INTERLOCK DEVICE.

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**Amendment No. 1 to House Bill No. 1268**

Amend House Bill No. 1268 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 5-65-118(a)(1)(A)(i), concerning the use of an ignition interlock device, is amended to read as follows:

(a)(1)(A)(i) The Except as provided under subsection (g) of this section, the Office of Driver Services shall place a restriction on a person who has violated § 5-65-103 for a first or second offense that requires the person's motor vehicle to be equipped with a functioning ignition interlock device in addition to any other penalty authorized by this chapter.

SECTION 2. Arkansas Code § 5-65-118, concerning the use of an ignition interlock device, is amended to add an additional subsection to read as follows:

(g)(1) A person who has violated § 5-65-103 for a first offense that requires the person's motor vehicle to be equipped with a functioning ignition interlock device under this section may petition the court with jurisdiction for a waiver of the requirement to install a functioning interlock device under this section.

(2) The court with jurisdiction may waive the requirement to install a functioning interlock device under this section if the court finds that the installation of a functioning interlock device would constitute a hardship on the person.

(3) Upon finding that the installation of a functioning interlock device would constitute a hardship on a person under subdivision (g)(2) of this section, the court with jurisdiction shall enter an order to that effect and transmit the order to the office for compliance."



The Amendment was read  
By: Representative Murdock  
BPG/TDW - 03-15-2017 10:35:07  
BPG534

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Chief Clerk

# ACT 1094 OF 2017 INTERLOCK DEVICE - WAIVER

## Interlock Waiver

Effective Date: August 1, 2017

5-65-118 (g)(1) A person who has violated § 5-65-103 for a first offense that requires the person's motor vehicle to be equipped with a functioning ignition interlock device under this section may petition the court with jurisdiction for a waiver of the requirement to install a functioning interlock device under this section.

(2) The court with jurisdiction may waive the requirement to install a functioning interlock device under this section under the following conditions:

(A) The person is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the person;

(B) The person is certified by a medical doctor as being unable to provide a deep lung breath sample for analysis by an ignition interlock device; or

(C) A state-certified ignition interlock provider is not available within one hundred (100) miles of the person's residence.

(3) Upon finding that a condition under subdivision (g)(2) of this section is present, the court with jurisdiction shall enter an order to that effect and transmit the order to the office for compliance.

To be eligible to drive on a 1<sup>st</sup> offense DWI/BWI,  
a licensee must have a functioning ignition interlock device installed in their vehicle.

THE WAIVER DOES NOT CHANGE THIS.

The only benefit a licensee receives from an interlock waiver, is it will no longer be mandatory and for a specific length of time. However, if the licensee wants to drive during their suspension, they must have an interlock device.

✱ Make sure you are FULLY explaining this to the licensee.

✱ We do not want a licensee to remove an interlock device because they are under the impression they will be issued a restricted permit or can drive without any restrictions.

## Receive Order Waiving Interlock:

- ✓ Make sure the court granting the waiver has jurisdiction over the DWI/BWI offense.
- ✓ Make sure it is a 1<sup>st</sup> offense.
- ✓ Make sure the licensee understands, they will not be able to drive, if the device is removed from their vehicle.

➤ Override the interlock requirement – This is done by editing the DUI Case and click

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INTERLOCK RESTRICTIONS		
<input checked="" type="checkbox"/> Override Requirement?		
Duration		
1st - 6 Months Requirement		
LINKED VEHICLES		
Tag Number	Registered Owner Name	Not Suspended

de Requirement?" box.

