Stricken language would be deleted from and underlined language would be added to present law.

Act 1094 of the Regular Session

State of Arkansas

As Engrossed: H3/20/17 S3/30/17

A Bill

HOU7E BILL 1268

By: Representative Murdock

For An Act To Be Entitled

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

Subtitle

CONCERNING THE USE OF AN IGNITION INTERLOCK DEVICE.

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

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

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

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

SECTION 2. 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 (p) 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 3. 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 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.

/s/Murdock

APPROVED: 04/07/2017
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)(1), concerning the use of an ignition interlock device, is amended to read as follows:

(a)(1)(A)(1) 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

Chief Clerk
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 1st 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, if 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 1st 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 clicking the "Override Requirement?" box.