

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

State of Arkansas  
89th General Assembly  
Regular Session, 2013

*As Engrossed: H4/3/13*  
**A Bill**

HOUSE BILL 1394

By: Representatives Fielding, Baltz, Hawthorne, House, Julian, McGill, Sabin, F. Smith, D. Whitaker,  
Word

By: Senator Irvin

### **For An Act To Be Entitled**

AN ACT TO MAKE OUR ROADS SAFER BY PROVIDING FOR  
EDUCATION AND TESTING CONCERNING DISTRACTED DRIVING;  
TO ENSURE DETERRENCE FROM TEXTING WHILE DRIVING BY  
INCREASING THE RELATED PENALTIES; AND FOR OTHER  
PURPOSES.

### **Subtitle**

TO MAKE OUR ROADS SAFER BY PROVIDING FOR  
EDUCATION AND TESTING CONCERNING  
DISTRACTED DRIVING; AND TO ENSURE  
DETERRENCE FROM TEXTING WHILE DRIVING BY  
INCREASING THE RELATED PENALTIES.

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

SECTION 1. Arkansas Code § 27-16-706 is amended to read as follows:  
27-16-706. Written test – Contents.

The driver's license test shall include written questions concerning:

- (1) The effects of the consumption of alcoholic beverage products and the use of illegal drugs, prescription drugs, and nonprescription drugs on the ability of a person to operate a motor vehicle;
- (2) The legal and financial consequences resulting from violations of the state's laws prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs;
- (3) Accessible parking for a person with a disability; ~~and~~



(4) Penalties for the unauthorized use of parking designated for the exclusive use of a person with a disability~~;~~ and

(5) The effects and hazards of distracted driving and the penalties for violations of state distracted driving laws.

SECTION 2. Arkansas Code § 27-16-804(b)(2)(B)(iii), concerning the use of a cellular telephone device by a driver under eighteen (18) years of age, is amended to read as follows:

(iii) The driver shall not use a cellular telephone device, wireless telephone, or other interactive wireless communication device while operating a motor vehicle except for an emergency purpose as provided under the Fewer Distractions Mean Safer Driving Act, § 27-51-1601 et seq. ~~As used in this subdivision (b)(2)(B)(iii), "emergency purpose" means the driver:~~

~~(a) Has reason to fear for his or her life, safety, or property;~~

~~(b) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or~~

~~(c) Is reporting:~~

~~(1) A fire;~~

~~(2) A traffic accident;~~

~~(3) A serious road hazard;~~

~~(4) A medical emergency;~~

~~(5) A hazardous materials emergency;~~

~~(6) Another driver who is recklessly, carelessly, or unsafely driving; or~~

~~(7) Another driver who appears to be driving under the influence of drugs or alcohol.~~

SECTION 3. Arkansas Code § 27-16-804(e), concerning penalties for violation of motor vehicle license restrictions, is amended to read as follows:

(e) ~~It~~ Unless otherwise provided by law, it is a misdemeanor for ~~any a~~ a person to operate a motor vehicle in ~~any a~~ a manner in violation of the restrictions imposed in a restricted license issued to him or her.

SECTION 4. Arkansas Code § 27-16-804(f)(4), concerning use of a cellular telephone device by a driver with a learner's license, is amended to read as follows:

(4)(A) A driver with a learner's license shall not use a cellular telephone device, wireless telephone, or other interactive wireless communication device while operating a motor vehicle except for an emergency purpose as provided under the Fewer Distractions Mean Safer Driving Act, § 27-51-1601 et seq.

~~(B) As used in this subdivision (f)(4), "emergency purpose" means the driver:~~

~~(i) Has reason to fear for his or her life, safety, or property;~~

~~(ii) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or~~

~~(iii) Is reporting:~~

~~(a) A fire;~~

~~(b) A traffic accident;~~

~~(c) A serious road hazard;~~

~~(d) A medical emergency;~~

~~(e) A hazardous materials emergency;~~

~~(f) Another driver who is recklessly, carelessly, or unsafely driving; or~~

~~(g) Another driver who appears to be driving under the influence of drugs or alcohol.~~

~~(C)(B)~~ This subdivision (f)(4) is not retroactive and applies only to a person who:

(i) Applies for a learner's license after the effective date of this act; and

(ii) Is issued a learner's license after the effective date of this act.

SECTION 5. Arkansas Code § 27-16-804(g)(1)(D), concerning use of a cellular telephone device by a driver with an intermediate license, is amended to read as follows:

(D)~~(i)~~ A driver with an intermediate driver's license shall not use a cellular telephone device, wireless telephone, or other interactive wireless communication device while operating a motor vehicle except for an emergency purpose, as provided under the Fewer Distractions Mean Safer Driving Act, § 27-51-1601 et seq.

~~(ii) As used in this subdivision (g)(1)(D), "emergency purpose" means the driver:~~

~~(a) Has reason to fear for his or her life, safety, or property;~~

~~(b) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or~~

~~(c) Is reporting:~~

~~(1) A fire;~~

~~(2) A traffic accident;~~

~~(3) A serious road hazard;~~

~~(4) A medical emergency;~~

~~(5) A hazardous materials emergency;~~

~~(6) Another driver who is recklessly, carelessly, or unsafely driving; or~~

~~(7) Another driver who appears to be driving under the influence of drugs or alcohol.~~

SECTION 6. Arkansas Code § 27-18-108 is amended to read as follows:

27-18-108. Instruction manual.

The driver's instruction manual of the Department of Arkansas State Police issued to persons who are preparing to take a driver's license examination shall include information on driver and highway safety matters, including:

(1) The effects of the consumption of beverage alcohol products and the use of illegal drugs, prescription drugs, and nonprescription drugs on the ability of a person to operate a motor vehicle;

(2) The hazards of driving while under the influence;

(3) The penalties for driving while under the influence;

(4) The effect and hazards of discarding litter upon or along the public highways of Arkansas and the penalties for violations of the

Litter Control Act, § 8-6-401 et seq.; ~~and~~

(5) The effects and hazards of unsafe driving through highway work zones and the penalties for violations for driving unsafely through highway work zones; ~~and~~

(6) The effects and hazards of distracted driving and the penalties for violations of state distracted driving laws.

*SECTION 7. Arkansas Code § 27-51-1503(1)(B), concerning definitions under Paul's Law: To Prohibit Drivers of Motor Vehicles from Using Handheld Wireless Telephones to Engage in Text Messaging, § 27-51-1501 et seq., is amended to add an additional subdivision to read as follows:*

*(B) "Handheld wireless telephone" does not include a:*

*(i) Hands-free wireless telephone or device;*

*(ii) Citizens band radio; ~~or~~*

*(iii) Citizens band radio hybrid; or*

*(iv) Global positioning system device;*

*SECTION 8. Arkansas Code § 27-51-1504, concerning use of a handheld wireless telephone when driving, is amended to add an additional subsection to read as follows:*

*(c) A person violating subsection (a) of this section while driving or operating a vehicle in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in such a manner as to evidence a failure to maintain proper control on the public thoroughfares or private property in the State of Arkansas, is subject to the penalties in § 27-51-1506.*

*SECTION 9. Arkansas Code § 27-51-1506 is amended to read as follows:*

*(a) A person who pleads guilty or nolo contendere to or has been found guilty of violating ~~this section~~ § 27-51-1504(a) commits a violation.*

*(b) A person who pleads guilty or nolo contendere to or has been found guilty of violating § 27-51-1504(c) shall:*

*(1) For a first offense:*

*(A) Pay a fine of two hundred dollars (\$200); and*

*(B) Have his or her driver's license suspended by the court for a period of not more than thirty (30) days;*

(2) For a second offense occurring within five (5) years of the first offense:

(A) Pay a fine of three hundred dollars (\$300); and

(B) Have his or her driver's license suspended by the court for a period of not more than ninety (90) days; and

(3) For a third and subsequent offense occurring within five (5) years of the first offense:

(A) Pay a fine of five hundred dollars (\$500); and

(B) Have his or her driver's license suspended by the court for a period of not more than one (1) year.

(c) Upon request of a person whose privilege to drive has been suspended under this section the Office of Driver Services may modify the suspension under § 5-65-120.

SECTION 10. Arkansas Code Title 27, Chapter 51, Subchapter 15 is amended to add an additional section to read as follows:

27-51-1507. Applicability.

This subchapter does not apply to a person operating a commercial motor vehicle as defined by 49 C.F.R. § 390.5, as in effect on January 1, 2013.

SECTION 11. Arkansas Code § 27-51-1605 is repealed.

~~A driver of a motor vehicle is not to be stopped or detained solely to determine compliance with this subchapter.~~

SECTION 12. Arkansas Code § 27-51-1607 is amended to read as follows:

(a)(1) For a first offense under ~~this subchapter~~ § 27-51-1603 or § 27-51-1604, a person shall be issued a warning citation ~~that is a warning citation~~, and no court appearance is required and no penalty shall be imposed by the court.

(2) A record of each warning citation issued shall be maintained.

(b) A person who pleads guilty or nolo contendere to or has been found guilty of violating ~~this subchapter~~ § 27-51-1603 or § 27-51-1604 for a second or subsequent offense is guilty of a violation under § 5-1-108 and shall be fined fifty dollars (\$50.00).

(c) A person who pleads guilty or nolo contendere to or has been found

guilty of violating § 27-51-1609, § 27-51-1610, or § 27-51-1611 shall:

(1) For a first offense:

(A) Pay a fine of two hundred dollars (\$200); and

(B) Have his or her driver's license suspended by the court for a period of not more than thirty (30) days;

(2) For a second offense occurring within five (5) years of the first offense:

(A) Pay a fine of three hundred dollars (\$300); and

(B) Have his or her driver's license suspended by the court for a period of not more than ninety (90) days; and

(3) For a third and subsequent offense occurring within five (5) years of the first offense:

(A) Pay a fine of five hundred dollars (\$500); and

(B) Have his or her driver's license suspended by the court for a period of not more than one (1) year.

(d) Upon request of a person whose privilege to drive has been suspended under this section the Office of Driver Services may modify the suspension under § 5-65-120.

SECTION 13. Arkansas Code Title 27, Chapter 51, Subchapter 16, is amended to add additional sections to read as follows:

27-51-1611. Proper lookout and proper control.

A person violating this subchapter while driving or operating a vehicle in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in such a manner as to evidence a failure to maintain proper control on the public thoroughfares or private property in the State of Arkansas, shall be subject to the penalties in § 27-51-1607(c).

27-51-1612. Applicability

This subchapter does not apply to a person operating a commercial motor vehicle as defined by 49 C.F.R. § 390.5, as in effect on January 1, 2013.

/s/Fielding