

SENATE BILL NO. 322

BY SENATOR SMITH

1 AN ACT

2 To amend and reenact R.S. 14:98.7(A) and R.S. 32:661(C)(1)(d) and (e), 666(A)(1)(a)(i) and  
3 (3), the introductory paragraph of 667(A), (C), (H)(3), and (I)(1)(a), (c), and (d), and  
4 (2), the introductory paragraph of 667.1(A), and 669(A), to enact R.S. 32:661(D),  
5 and to repeal R.S. 32:661(C)(1)(f), relative to tests for suspected drunken drivers; to  
6 provide relative to chemical tests for intoxication required to be given to persons  
7 suspected of operating a motor vehicle while intoxicated; to provide relative to  
8 suspension of a driver's license for failure to submit to a chemical test for  
9 intoxication; to provide relative to required notice to certain drivers suspected of  
10 operating a motor vehicle while intoxicated; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 14:98.7(A) is hereby amended and reenacted to read as follows:

13 §98.7. Unlawful refusal to submit to chemical tests; arrests for driving while  
14 intoxicated

15 A. No person under arrest for a violation of R.S. 14:98, ~~or 98.6~~ **98.1**, or any  
16 other law or ordinance that prohibits operating a vehicle while intoxicated, may  
17 refuse to submit to a chemical test when requested to do so by a law enforcement  
18 officer if he has refused to submit to such test on two previous and separate  
19 occasions of any such violation.

20 \* \* \*

21 Section 2. R.S. 32:661(C)(1)(d) and (e), 666(A)(1)(a)(i) and (3), the introductory  
22 paragraph of 667(A), (C), (H)(3), and (I)(1)(a), (c), and (d) and (2), the introductory  
23 paragraph of 667.1(A), and 669(A) are hereby amended and reenacted and R.S. 32:661(D)  
24 is hereby enacted to read as follows:

25 §661. Operating a vehicle under the influence of alcoholic beverages or illegal

1 substance or controlled dangerous substances; implied consent to  
2 chemical tests; administering of test and presumptions

3 \* \* \*

4 C.(1) When a law enforcement officer requests that a person submit to a  
5 chemical test as provided for above, he shall first read to the person a standardized  
6 form approved by the Department of Public Safety and Corrections. The department  
7 is authorized to use such language in the form as it, in its sole discretion, deems  
8 proper, provided that the form does inform the person of the following:

9 \* \* \*

10 (d) That his driving privileges can be suspended if he submits to the chemical  
11 test and the test results show a positive reading indicating the presence of any  
12 controlled dangerous substance listed in R.S. 40:964. **The department may exclude**  
13 **this warning from the form required by this Paragraph until such time as a**  
14 **suspension for a test result shows a positive reading indicating the presence of**  
15 **any controlled dangerous substance listed in R.S. 40:964 is enacted by the**  
16 **legislature.**

17 (e) ~~The name and employing agency of all law enforcement officers involved~~  
18 ~~in the stop, detention, investigation, or arrest of the person.~~

19 (f) That refusal to submit to a chemical test after an arrest for an offense of  
20 driving while intoxicated if he has refused to submit to such test on two previous and  
21 separate occasions of any previous such violation is a crime under the provisions of  
22 R.S. ~~14:98.2~~ **14:98.7** and the penalties for such crime are the same as the penalties  
23 for first conviction of driving while intoxicated.

24 \* \* \*

25 **D. The notice issued to the person tested pursuant to R.S. 32:667 shall**  
26 **include the name and employing agency of all law enforcement officers actively**  
27 **participating in the stop, detention, investigation, or arrest of the person.**

28 \* \* \*

29 §666. Refusal to submit to chemical test; submission to chemical tests; exception;  
30 effects of



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

\* \* \*

§667. Seizure of license; circumstances; temporary license

A. When a law enforcement officer places a person under arrest for a violation of R.S. 14:98 or ~~98.1~~ 98.6, or a violation of a parish or municipal ordinance that prohibits operating a vehicle while intoxicated, and the person either refuses to submit to an approved chemical test for intoxication, or submits to the test and the test results show a blood alcohol level of 0.08 percent or above by weight or, if the person is under the age of twenty-one, a blood alcohol level of 0.02 percent or above by weight, the following procedures shall apply:

\* \* \*

C. The department shall develop a uniform statewide form for temporary receipt of licenses which shall be used by all state and local law enforcement officials. ~~The~~ This form, or a separate form, shall be issued ~~in duplicate~~ to the person arrested to provide a means for him to request an administrative hearing.

\* \* \*

H.(1)

\* \* \*

(3) Paragraph (1) of this Subsection shall not apply to a person who refuses to submit to an approved chemical test upon a second or subsequent arrest for R.S. 14:98 or ~~98.1~~ 98.6, or a parish or municipal ordinance that prohibits driving a motor vehicle while intoxicated. However, this Paragraph shall not apply if the second or subsequent arrest occurs more than ten years after the prior arrest. The department's records of arrests made for operating a vehicle while intoxicated, as certified by the arresting officer pursuant to R.S. 32:666(B), shall be used to determine the application of the provisions of this Paragraph. In the event the suspension arising out of such arrest has been reversed or recalled including any reversal or recall as a result of an administrative hearing or judicial review, then that arrest related to that suspension shall not be used to determine if this Paragraph applies to a driver's license reinstatement.

I.(1) In addition to any other provision of law, an ignition interlock device shall be installed in any motor vehicle operated by any of the following persons

1 whose driver's license has been suspended in connection with the following  
 2 circumstances as a condition of the reinstatement of such person's driver's license:

3 (a) Any person who has refused to submit to an approved chemical test for  
 4 intoxication, after being requested to do so, for a second arrest of R.S. 14:98 or ~~98.1~~  
 5 **98.6** or a parish or municipal ordinance that prohibits operating a vehicle while  
 6 intoxicated and whose driver's license has been suspended in accordance with law.

7 \* \* \*

8 (c) Any person who is arrested for a violation of R.S. 14:98, ~~R.S. 14:98.1~~  
 9 **98.6**, or a parish or municipal ordinance that prohibits operating a vehicle while  
 10 intoxicated and is involved, as a driver, in a traffic crash which involves moderate  
 11 bodily injury or serious bodily injury as defined in R.S. 32:666(A).

12 (d) Any person who is arrested for a violation of R.S. 14:98, ~~R.S. 14:98.1~~  
 13 **98.6**, or a parish or municipal ordinance that prohibits operating a vehicle while  
 14 intoxicated and a minor child twelve years of age or younger was a passenger in the  
 15 motor vehicle at the time of the commission of the offense.

16 (2) As to any person enumerated in Paragraph (1) of this Subsection, the  
 17 ignition interlock device shall remain on the motor vehicle for a period of not less  
 18 than six months. The ignition interlock device may be installed either prior to the  
 19 reinstatement of the driver's license, if the person has lawfully obtained a restricted  
 20 driver's license, or as a condition of the reinstatement of the driver's license. When  
 21 the driver's license is suspended as described in this Subsection, the ignition interlock  
 22 device shall remain on the motor vehicle for the same period as the suspension, with  
 23 credit for time when the interlock device was installed and functioning as part of a  
 24 restricted driver's license, or with credit for time when the ignition interlock  
 25 device is monitored in accordance with R.S. 32:378.2(M).

26 \* \* \*

27 §667.1. Seizure of license upon arrest for vehicular homicide; issuance of  
 28 temporary license; suspension

29 A. When a law enforcement officer places a person under arrest for a  
 30 violation of R.S. 14:32.1 (vehicular homicide), **and a certificate of arrest has not**

1 already been submitted to the office of motor vehicles pursuant to R.S.  
2 32:666(B) for a submission or refusal to submit to the chemical test, the  
3 following procedure shall apply:

4 \* \* \*

5 §669. Suspension of nonresident's operating privilege; notification to state of  
6 residence

7 A. When a nonresident driver submits to the chemical test, or refuses to  
8 take an approved chemical test as provided for in R.S. 32:666 32:661 et seq., the  
9 arresting officer or agency shall notify the department, which shall give information,  
10 in writing, to the motor vehicle administrator of the state of the person's residence  
11 and of any state in which he has a license.

12 \* \* \*

13 Section 3. R.S. 32:661(C)(1)(f) is hereby repealed in its entirety.

14 Section 4. This Act shall become effective upon signature by the governor or, if not  
15 signed by the governor, upon expiration of the time for bills to become law without signature  
16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
18 effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_