

2023 Regular Session

HOUSE BILL NO. 484

BY REPRESENTATIVE EDMONDS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MTR VEHICLE/DRIVER LIC: Provides relative to suspension of a driver's license and eligibility for a hardship license for certain offenses of operating a vehicle while intoxicated

1 AN ACT

2 To amend and reenact R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b) and R.S.  
3 32:378.2(B)(1)(a)(ii), 414(A)(1)(c), and 667(B)(1)(b) and (c) and (3), relative to  
4 operating a vehicle while intoxicated; to provide relative to suspension of a driver's  
5 license for a first and second offense of operating a vehicle while intoxicated; to  
6 provide relative to eligibility for a hardship license; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b) are hereby  
10 amended and reenacted to read as follows:

11 §98.1. Operating while intoxicated; first offense; penalties

12 A.

13 \* \* \*

14 (2)(a) If the offender had a blood alcohol concentration of 0.15 percent or  
15 more but less than 0.20 percent by weight based on grams of alcohol per one hundred  
16 cubic centimeters of blood, at least forty-eight hours of the sentence imposed  
17 pursuant to Paragraph (1) of this Subsection shall be served without the benefit of  
18 parole, probation, or suspension of sentence, and is to be served in addition to any  
19 sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this

1 Subsection, provided that the total period of imprisonment upon conviction of the  
2 offense, including imprisonment for default in payment of a fine or costs, shall not  
3 exceed six months.

4 (b) In addition to any penalties imposed under this Section, upon conviction  
5 of a first offense, if the offender had a blood alcohol concentration of 0.15 percent  
6 or more by weight based on grams of alcohol per one hundred cubic centimeters of  
7 blood, the driver's license of the offender shall be suspended for two years.

8 (3)

9 \* \* \*

10 (b) In addition to any penalties imposed under this Section, upon conviction  
11 of a first offense, if the offender had a blood alcohol concentration of ~~0.20~~ 0.15  
12 percent or more by weight based on grams of alcohol per one hundred cubic  
13 centimeters of blood, the driver's license of the offender shall be suspended for two  
14 years.

15 \* \* \*

16 §98.2. Operating while intoxicated; second offense; penalties

17 A.

18 \* \* \*

19 (2)(a) If the offender had a blood alcohol concentration of 0.15 percent or  
20 more but less than 0.20 percent by weight based on grams of alcohol per one hundred  
21 cubic centimeters of blood, at least ninety-six hours of the sentence imposed  
22 pursuant to Paragraph (1) of this Subsection shall be served without the benefit of  
23 parole, probation, or suspension of sentence.

24 (b) In addition to any penalties imposed under this Section, upon conviction  
25 of a second offense violation of R.S. 14:98, if the offender had a blood alcohol  
26 concentration of 0.15 percent or more by weight based on grams of alcohol per one  
27 hundred cubic centimeters of blood, the driver's license of the offender shall be  
28 suspended for four years.

1 (3)

2 \* \* \*

3 (b) In addition to any penalties imposed under this Section, upon conviction  
4 of a second offense violation of R.S. 14:98, if the offender had a blood alcohol  
5 concentration of ~~0.20~~ 0.15 percent or more by weight based on grams of alcohol per  
6 one hundred cubic centimeters of blood, the driver's license of the offender shall be  
7 suspended for four years.

8 \* \* \*

9 Section 2. R.S. 32:378.2(B)(1)(a)(ii), 414(A)(1)(c), and 667(B)(1)(b) and (c) and (3)  
10 are hereby amended and reenacted to read as follows:

11 §378.2. Ignition interlock devices; condition of probation for certain DWI  
12 offenders; restricted license

13 \* \* \*

14 B.(1) Any person who has had his driver's license suspended, revoked, or  
15 canceled under any of the following conditions shall, upon proof to the Department  
16 of Public Safety and Corrections that his motor vehicle has been equipped with a  
17 functioning ignition interlock device as provided in this Section, be issued a  
18 restricted driver's license:

19 (a)

20 \* \* \*

21 (ii) However, if the offender had a blood alcohol concentration of ~~0.20~~ 0.15  
22 percent or more by weight based on grams of alcohol per one hundred cubic  
23 centimeters of blood the following restrictions shall apply:

24 (aa) Upon first offense, if the offender had a blood alcohol concentration of  
25 ~~0.20~~ 0.15 percent or greater, he shall be issued a restricted driver's license during the  
26 entire period of the two-year driver's license suspension imposed under the  
27 provisions of ~~R.S. 14:98(K)(1)~~ R.S. 14:98.1(A)(3)(b) and (c) and shall be required  
28 to have a functioning ignition interlock device installed on his vehicle during the first  
29 twelve-month period of the suspension.

1 (bb) Upon second offense, if the offender has a blood alcohol concentration  
 2 of ~~0.20~~ 0.15 percent or greater, he shall be eligible for a restricted driver's license for  
 3 the period of suspension as imposed under the provisions of ~~R.S. 14:98(K)(2)(b)~~ R.S.  
 4 14:98.2(A)(3)(b) and (c). The offender may be issued a restricted license during the  
 5 entire four years on his suspension and shall be required to have a functioning  
 6 ignition interlock device installed on his vehicle during the first three years of the  
 7 four-year suspension.

8 \* \* \*

9 §414. Suspension, revocation, renewal, and cancellation of licenses; judicial review  
 10 A.(1)

11 \* \* \*

12 (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this  
 13 Paragraph, upon first or second conviction, or a plea of guilty or nolo contendere and  
 14 sentence thereupon or forfeiture of bail of any person charged with the offense of  
 15 driving while intoxicated when the offender had a blood alcohol concentration of  
 16 ~~0.20~~ 0.15 percent or more by weight based on grams of alcohol per one hundred  
 17 cubic centimeters of blood, the following restrictions on suspension and issuance of  
 18 a restricted driver's license shall apply:

19 (i) Upon first conviction, if the offender had a blood alcohol concentration  
 20 of ~~0.20~~ 0.15 percent or greater, his driver's license shall be suspended for two years  
 21 and he shall be issued a restricted driver's license for the entire period of the  
 22 suspension after he has provided proof to the department that his motor vehicle is  
 23 equipped with a functioning ignition interlock device. A functioning ignition  
 24 interlock device shall remain installed on his vehicle during the first twelve-month  
 25 period of the suspension of his driver's license.

26 (ii) Upon second conviction, if the offender has a blood alcohol  
 27 concentration of ~~0.20~~ 0.15 percent or greater, his driver's license shall be suspended  
 28 for four years. The offender shall be eligible for a restricted license ~~after a period of~~  
 29 ~~forty-five days of suspension for the remainder of~~ for the four-year period of

1 suspension after he has provided proof to the department that his motor vehicle is  
2 equipped with a functioning ignition interlock device. A functioning ignition  
3 interlock device shall remain installed on his vehicle during the first three-year  
4 period of the four-year period of the suspension of his driver's license.

5 \* \* \*

6 §667. Seizure of license; circumstances; temporary license

7 \* \* \*

8 B. If such written request is not made by the end of the thirty-day period, the  
9 person's license shall be suspended as follows:

10 (1)

11 \* \* \*

12 (b) ~~On or after September 30, 2003, if~~ If the person submitted to the test and  
13 the test results show a blood alcohol level of 0.08 percent or above by weight, his  
14 driving privileges shall be suspended for ninety days from the date of suspension on  
15 first offense violation, ~~without eligibility for a hardship license for the first thirty~~  
16 ~~days,~~ and for three hundred sixty-five days from the date of suspension, ~~without~~  
17 ~~eligibility for a hardship license,~~ on second and subsequent violations occurring  
18 within five years of the first offense. If the person was under the age of twenty-one  
19 years on the date of the test and the test results show a blood alcohol level of 0.02  
20 percent or above by weight, his driving privileges shall be suspended for one  
21 hundred eighty days from the date of suspension.

22 (c) If the person submitted to the test and the test results show a blood  
23 alcohol level of ~~0.20~~ 0.15 percent or above by weight, his driving privileges shall be  
24 suspended for two years from the date of suspension on first offense violation and  
25 for four years from the date of suspension for second offense violation.

26 \* \* \*

27 (3)(a) However, any licensee who has had his license suspended for a first  
28 or second offense of operating a motor vehicle while under the influence of alcoholic  
29 beverages under the provisions of this Subsection and who either refused to submit

1 to the test or who submitted to the test and the test showed a blood alcohol level of  
 2 less than ~~0.20~~ 0.15 percent shall, upon proof to the Department of Public Safety and  
 3 Corrections that his motor vehicle has been equipped with a functioning ignition  
 4 interlock device, be immediately eligible for and shall be granted a restricted license.  
 5 In the event that the department fails or refuses to issue the restricted driver's license,  
 6 the district court for the parish in which the licensee resides may issue an order  
 7 directing the department to issue the restricted license either by ex parte order or  
 8 after contradictory hearing.

9 (b) If the person submitted to the test as a result of a first violation and the  
 10 test results show a blood alcohol level of ~~0.20~~ 0.15 percent or above by weight, he  
 11 shall be eligible for a hardship license during the entire period of the imposed two-  
 12 year suspension after he has provided proof that his motor vehicle has been equipped  
 13 with an ignition interlock device. A functioning ignition interlock device shall  
 14 remain installed on his motor vehicle during the first twelve-month period of his  
 15 driver's license suspension.

16 (c) If the person submitted to the test as a result of a second violation and the  
 17 test results show a blood alcohol level of ~~0.20~~ 0.15 percent or above by weight, he  
 18 shall be eligible for a hardship license during the entire four-year period of the  
 19 suspension after he has provided proof that his motor vehicle has been equipped with  
 20 an ignition interlock device. A functioning ignition interlock device shall remain  
 21 installed on his motor vehicle during the first three-years of the four-year period of  
 22 his driver's license suspension.

23 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 484 Original 2023 Regular Session Edmonds

**Abstract:** Provides relative to suspension of a driver's license and eligibility for a hardship license for the offense of operating a vehicle while intoxicated.

Present law (R.S. 14:98.1) relative to a first offense of operating a vehicle while intoxicated, provides that if the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least 48 hours of the sentence imposed shall be served without the benefit of parole, probation, or suspension of sentence, and the sentence is to be served in addition to any sentence of imprisonment imposed pursuant to present law, provided that the total period of imprisonment upon conviction of the offense, including default in payment of a fine or costs, shall not exceed six months.

Proposed law retains present law and provides that in addition to any other penalty imposed under present law, upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

Present law provides that upon conviction of a first offense and if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Present law (R.S. 14:98.2) relative to a second offense of operating a vehicle while intoxicated, provides that if the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least 96 hours of the sentence imposed pursuant to present law shall be served without the benefit of parole, probation, or suspension of sentence.

Proposed law provides that in addition to any penalties imposed pursuant to present law, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for four years.

Present law provides that upon conviction of a second offense and if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the drivers license of the offender shall be suspended for four years.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Present law (R.S. 32:378.2) grants eligibility for a restricted driver's license to certain persons who had their license suspended for a DWI violation upon proof that their vehicle is equipped with a functioning ignition interlock device.

Present law further provides that if the offender had a blood alcohol concentration of 0.20 percent or greater, he shall be issued a restricted driver's license under certain conditions.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Present law (R.S. 32:414) provides relative to restrictions on the suspension or issuance of a restricted license for first or second convictions of a DWI when the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Proposed law further provides that upon a second conviction, the offender shall be eligible for a restricted license for the four-year period of suspension after he has provided proof to

the department that his motor vehicle is equipped with a functioning ignition interlock device.

Present law (R.S. 32:667) provides that on or after Sept. 30, 2003, if the person submitted to a breath alcohol concentration test and the test results show a blood alcohol level of 0.08 percent or above by weight, his driving privileges shall be suspended for 90 days from the date of suspension on a first offense violation, without eligibility for a hardship license for the first 30 days, and for 365 days from the date of suspension, without eligibility for a hardship license, on second and subsequent violations occurring within five years of the first offense.

Proposed law removes the enacting date from present law and removes the restriction for eligibility of a hardship license.

Proposed law further changes the blood alcohol concentration from 0.20 percent to 0.15 percent relative to hardship license requirements.

(Amends R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b) and R.S. 32:378.2(B)(1)(a)(ii), 414(A)(1)(c), and 667(B)(1)(b) and (c) and (3))