

2023 Regular Session

SENATE BILL NO. 82

BY SENATORS FESI, CLOUD, HENRY, MILLIGAN, MORRIS, POPE, STINE,
TALBOT AND WHITE

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

MOTOR VEHICLES. Provides relative to ignition interlock devices. (8/1/23)

1 AN ACT

2 To amend and reenact R.S. 32:378.2(H) and (M)(2), 414(A)(1)(c)(ii) and (D)(1)(b), and

3 667(B)(1)(b), and to enact R.S. 15:307.1 and R.S. 32:378.2(O), relative to ignition

4 interlock devices; to provide standards for compliance with ignition interlock

5 devices; to make technical changes; to provide relative to restricted driver's licenses;

6 to extend the amount of time that a driver is required to have an ignition interlock

7 device upon notice of noncompliance; to provide an ignition interlock affordability

8 plan; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:307.1 is hereby enacted to read as follows:

11 **§307.1. Ignition interlock affordability**

12 **A. The Department of Public Safety and Corrections, office of state**

13 **police shall promulgate rules and regulations to establish and monitor**

14 **compliance with an ignition interlock affordability plan for individuals that**

15 **demonstrate economic hardship who are required to install an ignition interlock**

16 **device.**

17 **B. Economic hardship shall be satisfied if an individual required to have**

1 the ignition interlock device is eligible for the Supplemental Nutrition
2 Assistance Program (SNAP), Medicaid, social security disability insurance
3 (SSDI), social security income (SSI), or a judge's order for services of an
4 indigent public defender (IPD) when the defendant demonstrated income below
5 one hundred twenty-five percent of the federal poverty level.

6 C. Individuals that meet the economic hardship standard shall be
7 required to pay no more than fifty percent of fees assessed by the ignition
8 interlock service center for installation, monthly calibration, lease, and removal
9 of the device.

10 D. Individuals that meet the economic hardship standard are responsible
11 for any optional services an individual elects, fees related to any noncompliance
12 as defined in R.S. 32:378.2, state-mandated fees, and any costs related to
13 damaged, missing or unreturned equipment, and recovery of such equipment.

14 E. Individuals become eligible for the affordability plan on the date that
15 the individual provides the ignition interlock manufacturer, or ignition
16 interlock service center, acceptable documentation verifying that the individual
17 meets the standard for economic hardship. Continued eligibility may be verified
18 at the discretion of the ignition interlock manufacturer or ignition interlock
19 service center. Acceptable forms of documentation shall include an eligibility
20 card or qualifying letter for SNAP, Medicaid, SSDI, or SSI administered by the
21 social security administration, or a judge's order for an indigent public
22 defender as described in this Section. If the documentation does not name the
23 individual required to install the ignition interlock device, the individual shall
24 be required to sign a notarized affidavit provided by the Department of Public
25 Safety and Corrections attesting to his eligibility for SNAP, Medicaid, SSDI, or
26 SSI on a state-approved form.

27 F. An ignition interlock manufacturer or ignition interlock service center
28 shall not refuse service to an individual that has demonstrated eligibility for the
29 affordability plan in accordance with this Section.

1 G. An individual who has been refused service, after providing the
 2 documentation required in this Section to an ignition interlock manufacturer
 3 or ignition interlock service center, may file a complaint with the Department
 4 of Public Safety and Corrections, office of state police, applied technology unit.
 5 Effective August 1, 2024, all complaints for refusal of service shall be
 6 investigated by the office of state police, applied technology unit, within thirty
 7 days of receipt of the complaint.

8 H. If the investigation substantiates the refusal of service, the
 9 Department of Public Safety and Corrections, office of state police, applied
 10 technology unit, may issue a warning, suspension, or revocation of the
 11 certification for the ignition interlock manufacturer or the ignition interlock
 12 service center based on the facts of the investigation and the history of
 13 complaints related to the manufacturer or service center. An ignition interlock
 14 manufacturer or ignition interlock service center may appeal any suspension or
 15 revocation issued pursuant to this Subsection.

16 Section 2. R.S. 32:378.2(H) and (M)(2), 414(A)(1)(c)(ii) and (D)(1)(b), and
 17 667(B)(1)(b) are hereby amended and reenacted, and R.S. 32:378.2(O) is hereby enacted to
 18 read as follows:

19 §378.2. Ignition interlock devices; condition of probation for certain DWI offenders;
 20 restricted license

21 * * *

22 H. The person whose driving privilege is restricted pursuant to this Section
 23 shall have the system monitored by the manufacturer, at the manufacturer's expense,
 24 for proper use at least ~~bi-monthly~~ **every thirty days**, and more frequently as the
 25 court may order, on the operation of each ~~interlocking~~ ignition **interlock** device in
 26 the person's vehicles. A report of ~~such~~ monitoring shall be issued by the
 27 manufacturer to the court and the department within fourteen days after the system
 28 is monitored. However, the report issued to the department shall be in an electronic
 29 format specified by the department.

1 * * *

2 M. * * *

3 (2) No credit towards suspension time or any reinstatement requirement shall
4 be given **if any of the following occur:**

5 ~~(a) if the~~ **The** manufacturer reports to the Department of Public Safety and
6 Corrections that any ~~combination of two~~ of the following violations have occurred
7 ~~in a one-month period, including any repeat violation of the same type~~ **once during**
8 **the period of installation:**

9 ~~(a)(i)~~ **(i)** Tampering with the device.

10 ~~(b)(ii)~~ **(ii)** Circumventing the device.

11 ~~(c)~~ Failure to bring the ignition interlock device in for required service.

12 ~~(d)~~ Failure to take or pass a re-test.

13 ~~(e)~~ Failure to pass a breath test.

14 ~~(f)~~ Use of the emergency override feature without justification.

15 **(b) The restricted operator fails to have the ignition interlock device**
16 **serviced by an approved ignition interlock provider every thirty days, more**
17 **than two times during the period of installation.**

18 **(c) The device has recorded any of the following, or any combination of**
19 **the following, three or more times in a thirty-day period:**

20 **(i) Failure to take or pass an initial breath test where pass is defined as**
21 **a breath alcohol concentration less than 0.02g of alcohol per 210L of breath.**

22 **(ii) Failure to take or pass a retest where pass is defined as a breath**
23 **alcohol concentration less than 0.02g of alcohol per 210L of breath.**

24 ~~(g)(d)~~ Unauthorized removal of the device.

25 * * *

26 **O. Any driver statutorily required to utilize and maintain an ignition**
27 **interlock device shall be in and remain in compliance with the standards set**
28 **forth in Subsection M(2) of this Section. Upon notice to the Department of**
29 **Public Safety and Corrections of any violations of Subsection M(2), the**

1 department shall extend the period the ignition interlock device is required by
 2 an additional six months and further restrict the driver's license. The
 3 department shall notify the driver that his driver's license will be restricted for
 4 an additional six months. A report of such noncompliance shall be issued by the
 5 manufacturer to the department in accordance with Subsection H of this
 6 Section.

7 * * *

8 §414. Suspension, revocation, renewal, and cancellation of licenses; judicial review

9 A.(1) * * *

10 (c) * * *

11 (ii) Upon second conviction, if the offender has a blood alcohol concentration
 12 of 0.20 percent or greater, his driver's license shall be suspended for four years. The
 13 offender shall be eligible for a restricted license ~~after a period of forty-five days of~~
 14 ~~suspension for the remainder of~~ **for** the four-year period of suspension after he has
 15 provided proof to the department that his motor vehicle is equipped with a
 16 functioning ignition interlock device. A functioning ignition interlock device shall
 17 remain installed on his vehicle during the first three-year period of the four-year
 18 period of the suspension of his driver's license.

19 * * *

20 D.(1) * * *

21 (b) Any licensee who has had his license suspended for operating a motor
 22 vehicle while under the influence of alcoholic beverages under the provisions of this
 23 Subsection shall be eligible to apply for a restricted driver's license ~~after a period of~~
 24 ~~twelve months~~ upon proof that his motor vehicle has been equipped with a
 25 functioning ignition interlock device. The ignition interlock device shall remain on
 26 the motor vehicle for not less than six months from the date the restricted driver's
 27 license is granted. In the event that the department fails or refuses to issue the
 28 restricted driver's license, the district court for the parish in which the licensee
 29 resides may issue an order directing the department to issue the restricted license

1 either by ex parte order or after contradictory hearing.

2 * * *

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

4 * * *

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

7 (1) * * *

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

18 * * *

19 Section 3. This Act shall be known and may be cited as "Bowling, Coss, and Dufrene
20 Drunk Driving Prevention Act".

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Archana D. Cadge.

SB 82 Reengrossed DIGEST 2023 Regular Session Fesi

Proposed law provides the Department of Public Safety and Corrections, office of state police promulgate rules and regulations to establish and monitor compliance with an ignition interlock affordability plan for individuals that demonstrate economic hardship who are required to install an ignition interlock device.

Proposed law establishes requirements and provides for payment for individuals who qualify for the "affordability plan" with economic hardship designation.

Proposed law provides an ignition interlock manufacturer or ignition interlock service center shall not refuse service to an individual that has demonstrated eligibility for the affordability plan. Proposed law further provides an individual who has been refused service, may file a

complaint with the Department of Public Safety and Corrections, office of state police, applied technology unit and establishes the requirements for the investigation and appeal by an ignition interlock manufacturer or ignition interlock service center. Proposed law regarding complaints for refusal of service are effective August 1, 2024.

Proposed law makes technical changes.

Present law provides credit toward suspension time or any reinstatement requirement not be given if the manufacturer reports to the Department of Public Safety and Corrections that any combination or a repeat of two of eight listed violations have occurred in a one-month period.

Proposed law changes the requirements for credit toward suspension from a combination or a repeat of two of eight listed violations, to only one of the eight violations and the occurrence does not have to be a repeat violation.

Proposed law provides upon notice of a violation, the Department of Public Safety and Corrections is required to extend the period the ignition interlock device by an additional six months and further restrict the driver's license.

Present law provides any licensee who has had his license suspended for operating a motor vehicle, under the influence of alcoholic beverages is eligible to apply for a restricted driver's license after a period of twelve months and proof the motor vehicle has been equipped with an ignition interlock device. Proposed law changes the period of eligibility for restricted license from proof the vehicle has been equipped with an interlocking device and a period of twelve months to no waiting period.

Proposed law provides that proposed law shall be known and cited as the "Bowling, Coss, and Dufrene Drunk Driving Prevention Act".

Effective August 1, 2023.

(Amends R.S. 32:378.2(H) and (M)(2), and 414(A)(1)(c)(ii) and (D)(1)(b), 667(B)(1)(b); adds R.S. 15:307.1 and R.S. 32:378.2(O))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Provides for an effective date for implementation by state police regarding complaints for refusal of service.
2. Provides for the Act to be known and cited as the "Bowling, Coss, and Dufrene Drunk Driving Prevention Act".

Senate Floor Amendments to engrossed bill

1. Removes criminal penalty of ignition interlock for driving while intoxicated.
2. Removes changes to times periods driver is required to have an ignition interlock device.
3. Clarifies the violations in which the department shall extend the period the ignition interlock device is required by an additional six months.
4. Removes penalties for first and second offenses for restrictions on driver's license.