

2024 Regular Session

SENATE BILL NO. 401

BY SENATOR REESE

CRIME/PUNISHMENT. Increases the penalties for the crimes of vehicular negligent injuring and first degree vehicular negligent injuring. (8/1/24)

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AN ACT

To amend and reenact R.S. 14:39.1(C) and 39.2(D) and to enact R.S. 14:2(B)(62), relative to the crimes of vehicular negligent injuring and first degree vehicular negligent injuring; to increase the penalties for vehicular negligent injuring and first degree vehicular negligent injuring under certain circumstances; to provide that first degree vehicular negligent injuring is a crime of violence under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:39.1(C) and 39.2(D) are hereby amended and reenacted and R.S. 14:2(B)(62) is hereby enacted to read as follows:

§2. Definitions

* * *

B. In this Code, "crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a

1 dangerous weapon. The following enumerated offenses and attempts to commit any
2 of them are included as "crimes of violence":

3 * * *

4 **(62) First degree vehicular negligent injuring, when the operator's blood**
5 **alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol**
6 **per one hundred cubic centimeters of blood.**

7 * * *

8 §39.1. Vehicular negligent injuring

9 * * *

10 C.(1) Whoever commits the crime of vehicular negligent injuring shall be
11 fined not more than one thousand dollars or imprisoned for not more than six
12 months, or both.

13 **(2) Whoever commits the crime of vehicular negligent injuring and who**
14 **had a blood alcohol concentration, at the time of the commission of the offense,**
15 **of at least 0.15 percent but less than 0.20 percent by weight based on grams of**
16 **alcohol per one hundred cubic centimeters of blood, shall be fined not more**
17 **than one thousand dollars and imprisoned for not less than seven days nor more**
18 **than six months. At least seven days of the sentence imposed by this Paragraph**
19 **shall be served without the benefit of probation or suspension of sentence.**

20 **(3) Whoever commits the crime of vehicular negligent injuring and who**
21 **had a blood alcohol concentration, at the time of the commission of the offense,**
22 **of at least 0.20 percent by weight based on grams of alcohol per one hundred**
23 **cubic centimeters of blood, shall be fined not more than one thousand dollars**
24 **and imprisoned for not less than thirty days nor more than six months. At least**
25 **thirty days of the sentence imposed by this Paragraph shall be served without**
26 **the benefit of probation or suspension of sentence.**

27 §39.2. First degree vehicular negligent injuring

28 * * *

29 D.(1)Whoever commits the crime of first degree vehicular negligent injuring

1 shall be fined not more than ~~two~~ **five** thousand dollars or imprisoned with or without
 2 hard labor for not more than ~~five~~ **ten** years, or both.

3 **(2) Whoever commits the crime of first degree vehicular negligent**
 4 **injuring and who had either a blood alcohol concentration, at the time of the**
 5 **commission of the offense, of at least 0.15 percent by weight based on grams of**
 6 **alcohol per one hundred cubic centimeters of blood, or has a prior conviction**
 7 **for operating a vehicle while intoxicated, shall be fined not more than five**
 8 **thousand dollars and imprisoned for not less than two years nor more than ten**
 9 **years. At least two years of the sentence imposed shall be served without the**
 10 **benefit of probation, parole, or suspension of sentence. During any period of**
 11 **probation, the court shall order the offender to participate in a court approved**
 12 **substance abuse treatment program and may require successful completion of**
 13 **a court approved driver improvement program.**

The original instrument was prepared by Jonathon Wagner. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

SB 401 Reengrossed

2024 Regular Session

Reese

Present law provides that vehicular negligent injuring is the inflicting of any injury on another when caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance when, among other factors, the offender's blood alcohol concentration (BAC) is 0.08% or more by weight based on grams of alcohol per one hundred cubic centimeters of blood.

Present law provides that whoever commits the crime of vehicular negligent injuring will be fined up to \$1,000, or imprisoned for up to six months, or both.

Proposed law provides that, if the offender had a BAC at the time of the commission of the offense of at least 0.15 but less than 0.20, he will be fined not more than \$1,000 and imprisoned for not less than seven days nor more than six months. At least seven days must be served without the benefit of probation or suspension of sentence. Proposed law further provides that, if the offender had a BAC at the time of the commission of the offense of 0.20 or more, he will be fined not more than \$1,000 and imprisoned for not less than 30 days nor more than six months. At least 30 days must be served without the benefit of probation or suspension of sentence.

Proposed law otherwise retains present law.

Present law provides that first degree vehicular negligent injuring is the inflicting of serious bodily injury on another when caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft,

or other means of conveyance when, among other factors, the offender's BAC is 0.08% or more.

Present law provides that whoever commits the crime of first degree vehicular negligent injuring will be fined up to \$2,000, or imprisoned with or without hard labor for up to five years, or both.

Proposed law increases the maximum fine from \$2,000 to \$5,000 and the maximum prison term, with or without hard labor, from five years to 10 years.

Proposed law provides that if the offender had a BAC at the time of commission of the offense of at least 0.15, or if the offender has a prior conviction for operating a vehicle while intoxicated, then he will be fined not more than \$5,000 and imprisoned for not less than two years nor more than 10 years. At least two years must be served without benefit of probation, parole, or suspension of sentence. Proposed law also provides that an offender placed on probation must, as a condition of his probation, participate in a court-approved substance abuse treatment program. Proposed law further provides that the court may order a offender to successfully complete a court-approved driver improvement program as a condition of his probation.

Proposed law provides that first degree vehicular negligent injuring is designated as a crime of violence when the offender's BAC was at least 0.20 at the time of the offense.

Effective August 1, 2024.

(Amends R.S. 14:39.1(C) and 39.2(D); adds R.S. 14:2(B)(62))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Technical amendments