

SENATE COMMITTEE AMENDMENTS

2024 Regular Session

Amendments proposed by Senate Committee on Judiciary C to Engrossed House Bill No. 776 by Representative Bryant

1 AMENDMENT NO. 1

2 On page 1, delete line 6 and insert:

3 "98.6(A), and 98.7(A) and R.S. 32:661(A)(1) and (2), 661.1(A), 661.2(A), 664(A),
4 666(A)(1)(a)(i) and (2)(c) and (B), 667.1(C)(2) and (3), 668(A)(1),
5 681(A)(introductory paragraph) and (B), (C), and (D), to enact R.S. 14:98(A)(3) and
6 R.S. 32:661(E) and 681(H), and to repeal R.S. 14:32.1(A)(6)"

7 AMENDMENT NO. 2

8 On page 10, between lines 3 and 4, insert:

9 "Section 2. R.S. 32:661(A)(1) and (2), 661.1(A), 661.2(A), 664(A), 666(A)(1)(a)(i)
10 and (2)(c) and (B), 667.1(C)(2) and (3), 668(A)(1), 681(A)(introductory paragraph) and (B),
11 (C), and (D) are hereby amended and reenacted and R.S. 32:661(E) and 681(H) are hereby
12 enacted to read as follows:

13 §661. Operating a vehicle under the influence of alcoholic beverages or illegal
14 substance or controlled dangerous substances; implied consent to
15 chemical tests; administering of test and presumptions

16 A.(1) Any person, regardless of age, who operates a motor vehicle upon the
17 public highways of this state shall be deemed to have given consent, subject to the
18 provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or
19 other bodily substance for the purpose of determining the alcoholic content of his
20 blood, and the presence of any ~~abused substance or controlled dangerous substance~~
21 ~~as set forth in R.S. 40:964~~ drug in his blood if arrested for any offense arising out of
22 acts alleged to have been committed while the person was driving or in actual
23 physical control of a motor vehicle while believed to be under the influence of
24 alcoholic beverages, ~~or any abused substance or controlled dangerous substance as~~
25 ~~set forth in R.S. 40:964~~ any drug, combination of drugs, or combination of alcohol
26 and drugs.

27 (2)(a) The test or tests shall be administered at the direction of a law
28 enforcement officer having reasonable grounds to believe the person, regardless of
29 age, to have been driving or in actual physical control of a motor vehicle upon the
30 public highways of this state while under the influence of either alcoholic beverages,
31 ~~or any abused substance or controlled dangerous substance as set forth in R.S.~~
32 ~~40:964~~ any drug, combination of drugs, or combination of alcohol and drugs. The
33 law enforcement agency by which such officer is employed shall designate in writing
34 and under what conditions which of the aforesaid tests shall be administered.

35 (b) In the case of all traffic fatalities, the coroner, or his designee, shall
36 perform or cause to be performed a toxicology screen on the victim or victims of all
37 traffic fatalities for determining evidence of any alcoholic content of the blood and
38 the presence of any ~~abused substance or controlled dangerous substance as set forth~~
39 ~~in R.S. 40:964~~ drug, or combination of drugs, which shall include the extracting of
40 all bodily substance samples necessary for such toxicology screen. The coroner, or
41 his designee, shall be responsible for ensuring the body is not removed from his
42 custody until such time as the bodily substance samples are extracted. The coroner's
43 report shall be made available to the investigating law enforcement agency and may
44 be admissible in any court of competent jurisdiction as evidence of the alcoholic
45 content of the blood and the presence of any ~~abused substance or controlled~~
46 ~~dangerous substance as set forth in R.S. 40:964~~ drug, or combination of drugs, at the
47 time of the fatality. The coroner, or his designee, shall determine, by the most
48 current and accepted scientific method available, whether the presence of alcoholic

1 content in the blood of the deceased is the result of pre-death ingestion of alcoholic
2 beverages or the postmortem synthesis of ethanol. Nothing herein shall be construed
3 to limit the authority of the investigating law enforcement agency from conducting
4 an investigation of the accident scene concurrently with the coroner or his designee.

5 * * *

6 E. As used in this Chapter, the term "drug" means any substance or
7 combination of substances that, when taken into the human body, may impair the
8 ability of the person to operate a vehicle safely.

9 §661.1. Operating a watercraft under the influence of alcoholic beverages or
10 controlled dangerous substances; implied consent to chemical tests;
11 administering of test and presumptions

12 A.(1) Any person, regardless of age, who operates a motor powered
13 watercraft upon the public navigable waterways of this state shall be deemed to have
14 given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of
15 his blood, breath, urine, or other bodily substance for the purpose of determining the
16 alcoholic content of his blood and the presence of any ~~abused substance or controlled~~
17 ~~dangerous substance as set forth in R.S. 40:964~~ drug in his blood if arrested for any
18 offense arising out of acts alleged to have been committed while the person was
19 driving or in actual physical control of a motor powered watercraft, while believed
20 to be under the influence of alcoholic beverages, ~~or any abused substance or~~
21 ~~controlled dangerous substance as set forth in R.S. 40:964~~ any drug, combination of
22 drugs, or combination of alcohol and drugs.

23 (2) The test or tests shall be administered at the direction of a law
24 enforcement officer having reasonable grounds to believe the person, regardless of
25 age, to have been driving or in actual physical control of a motor powered watercraft
26 upon the public navigable waterways of this state, while under the influence of either
27 alcoholic beverages, ~~or any abused substance or controlled dangerous substance as~~
28 ~~set forth in R.S. 40:964~~ any drug, combination of drugs, or combination of alcohol
29 and drugs. The law enforcement agency by which such officer is employed shall
30 designate which of the aforesaid tests shall be administered.

31 * * *

32 §661.2. Operation of a locomotive engine under the influence of alcoholic
33 beverages or controlled dangerous substances; implied consent to chemical
34 tests; administering of test and presumptions

35 A.(1) Any person who operates a locomotive engine upon the railroad tracks
36 of this state shall be deemed to have given consent, subject to the provisions of R.S.
37 32:662, to a chemical test or tests of his blood, breath, urine, or other bodily
38 substance for the purpose of determining the alcoholic content of his blood and the
39 presence of any ~~abused or illegal controlled dangerous substance as set forth in R.S.~~
40 ~~40:964~~ drug in his blood if he is involved in a collision at a railroad crossing at any
41 roadway of this state alleged to have occurred when he was driving or in actual
42 physical control of the locomotive engine while believed to be under the influence
43 of an alcoholic beverage, ~~or any abused or illegal controlled dangerous substance as~~
44 ~~set forth in R.S. 40:964~~ any drug, combination of drugs, or combination of alcohol
45 and drugs.

46 (2) The test or tests shall be administered at the direction of the law
47 enforcement officer having reasonable grounds to believe the person to have been
48 operating or in physical control of the locomotive engine while under the influence
49 of either an alcoholic beverage, ~~or any abused or illegal controlled dangerous~~
50 ~~substance as set forth in R.S. 40:964~~ any drug, combination of drugs, or combination
51 of alcohol and drugs. The law enforcement agency by which such officer is
52 employed shall designate which of the aforesaid tests shall be administered.

53 * * *

54 §664. Persons authorized to administer test

55 A. When a person submits to a blood test at the request of a law enforcement
56 officer under the provisions of this Part, only a physician, physician assistant,
57 registered nurse, licensed practical nurse, emergency medical technician, chemist,
58 nurse practitioner, or other qualified technician may withdraw blood for the purpose
59 of determining the alcoholic content or presence of any ~~abused or illegal controlled~~
60 ~~dangerous substances~~ drug, or combination of drugs, therein. No law enforcement

1 officer who is not otherwise qualified as a physician, physician assistant, registered
2 nurse, licensed practical nurse, emergency medical technician, chemist, nurse
3 practitioner, or other qualified technician may withdraw blood for the purpose of
4 determining, or of having determined, the alcoholic content or presence of any
5 ~~abused or illegal controlled dangerous substances~~ drug, or combination of drugs,
6 therein. This limitation shall not apply to the taking of breath specimens. Only
7 procedures approved and promulgated by the Department of Public Safety and
8 Corrections may be used in the analysis of blood, urine, breath, or other bodily
9 substance.

10 * * *

11 §666. Refusal to submit to chemical test; submission to chemical tests; exception;
12 effects of

13 A.(1)(a)(i) When a law enforcement officer has probable cause to believe
14 that a person has violated R.S. 14:98, 98.6, or any other law or ordinance that
15 prohibits operating a vehicle while intoxicated, that person may not refuse to submit
16 to a chemical test or tests if he has refused to submit to such test or tests on two
17 previous and separate occasions of any previous such violation or in any case
18 wherein a fatality has occurred or a person has sustained serious bodily injury in a
19 crash involving a motor vehicle, aircraft, watercraft, vessel, or other means of
20 conveyance. Serious bodily injury means bodily injury which involves
21 unconsciousness, protracted and obvious disfigurement, or protracted loss or
22 impairment of the function of a bodily member, organ, or mental faculty, or a
23 substantial risk of death. The law enforcement officer shall direct that a chemical test
24 or tests be conducted of a person's blood, urine, or other bodily substance, or perform
25 a chemical test of such person's breath, for the purpose of determining the alcoholic
26 content of his blood and the presence of any ~~abused substance or controlled~~
27 ~~substance as set forth in R.S. 40:964~~ drug, or combination of drugs, in his blood in
28 such circumstances. The officer may direct a person to submit to a breath test, and
29 if indicated, an additional blood test for the purpose of testing for the presence of
30 alcohol, ~~abused substances, and controlled dangerous substances~~ any drug, or
31 combination of drugs. A refusal of any such test or tests shall result in the suspension
32 of driving privileges as provided by the provisions of this Part. A physician,
33 physician assistant, registered nurse, licensed practical nurse, emergency medical
34 technician, chemist, nurse practitioner, or other qualified technician shall perform a
35 chemical test in accordance with the provisions of R.S. 32:664 when directed to do
36 so by a law enforcement officer.

37 * * *

38 (2) In all cases other than those in Paragraph (1) of this Subsection, a person
39 under arrest for a violation of R.S. 14:98, 98.1, or other law or ordinance that
40 prohibits operating a vehicle while intoxicated may refuse to submit to such
41 chemical test or tests, after being advised of the consequences of such refusal as
42 provided for in R.S. 32:661(C), subject to the following:

43 * * *

44 (c) Evidence of his refusal shall be admissible in any criminal action or
45 proceeding arising out of acts alleged to have been committed while the person,
46 regardless of age, was driving or in actual physical control of a motor vehicle upon
47 the public highways of this state while under the influence of alcoholic beverages or
48 any ~~abused substance or controlled dangerous substance as set forth in R.S. 40:964~~
49 drug, or combination of drugs. Additionally, evidence of his refusal shall be
50 admissible in any criminal action or proceeding arising out of acts alleged to have
51 been committed while the person under twenty-one years of age was driving or in
52 actual physical control of a motor vehicle upon the public highways of this state after
53 having consumed alcoholic beverages. However, such evidence shall not be
54 admissible in a civil action or proceeding other than to suspend, revoke, or cancel his
55 driving privileges.

56 * * *

57 B. In each instance that a person submits or refuses to submit to a chemical
58 test, after being advised of the consequences of such refusal or submission as
59 provided for in R.S. 32:661(C), the officer shall submit a report in a form approved
60 by the secretary. The officer shall certify that he had reasonable grounds to believe
61 that the arrested person had been driving or was in actual physical control of a motor

1 vehicle upon the public highways of this state while under the influence of alcoholic
2 beverages, ~~or any abused or illegal controlled dangerous substance as set forth in~~
3 ~~R.S. 40:964~~ any drug, combination of drugs, or combination of alcohol and drugs,
4 that he had followed the procedure in informing such person of his rights under R.S.
5 32:661(C), and that such person had submitted to the test or refused to submit to the
6 test upon the request of the officer. In the case of a submission to the test, the officer
7 shall provide complete information regarding the test as may be available at the time
8 the certified report is completed.

9 * * *

10 §667.1. Seizure of license upon arrest for vehicular homicide; issuance of temporary
11 license; suspension

12 * * *

13 C.(1)

14 * * *

15 (2) The court shall conduct a contradictory hearing to determine whether a
16 chemical test has been performed of the blood, urine, or other bodily substance of the
17 person arrested and whether the test indicates the presence of alcohol, ~~an abused~~
18 ~~substance, a controlled dangerous substance as set forth in R.S. 40:964, or any other~~
19 ~~substance which causes impairment~~ any drug, or any combination of drugs. The
20 scope of the hearing shall be limited to the issues provided for in this Paragraph.

21 (3) If the court determines that the test provided for in Paragraph (2) of this
22 Subsection indicates the presence of alcohol, ~~an abused substance, a controlled~~
23 ~~dangerous substance or any other substance which causes impairment~~ any drug, or
24 any combination of drugs, then the court shall suspend the driver's license of any
25 person arrested for a violation of R.S. 14:32.1 (vehicular homicide) for one year,
26 without benefit of a hardship license.

27 * * *

28 §668. Procedure following revocation or denial of license; hearing; court review;
29 review of final order; restricted licenses

30 A. Upon suspending the license or permit to drive or nonresident operating
31 privilege of any person or upon determining that the issuance of a license or permit
32 shall be denied to the person, the Department of Public Safety and Corrections shall
33 immediately notify the person in writing and upon his request shall afford him an
34 opportunity for a hearing based upon the department's records or other evidence
35 admitted at the hearing, and in the same manner and under the same conditions as is
36 provided in R.S. 32:414 for notification and hearings in the case of suspension of
37 licenses, except that no law enforcement officer shall be compelled by such person
38 to appear or testify at such hearing and there shall be a rebuttable presumption that
39 any inconsistencies in evidence submitted by the department and admitted at the
40 hearing shall be strictly construed in favor of the person regarding the revocation,
41 suspension, or denial of license. The scope of such a hearing for the purposes of this
42 Part shall be limited to the following issues:

43 (1) Whether a law enforcement officer had reasonable grounds to believe the
44 person, regardless of age, had been driving or was in actual physical control of a
45 motor vehicle upon the public highways of this state, or had been driving or was in
46 actual physical control of a motor-powered watercraft upon the public navigable
47 waterways of this state, while under the influence of either alcoholic beverages or
48 ~~any abused substance or controlled dangerous substance as set forth in R.S. 40:964~~
49 drug, combination of drugs, or combination of alcohol and drugs.

50 * * *

51 §681. Postaccident drug testing; accidents involving fatalities, required

52 A. The operator of any motor vehicle or watercraft which is involved in a
53 collision or crash on the public highways, including waterways, shall be deemed to
54 have given consent to, and shall be administered, a chemical test or tests of his blood,
55 urine, or other bodily substances for the purpose of determining the presence of any
56 ~~abused substance or controlled dangerous substance as set forth in R.S. 40:964 or~~
57 ~~other applicable provision of law~~ drug, combination of drugs, or any other impairing
58 substance, under any of the following circumstances:

59 * * *

60 B. The test or tests required pursuant to Subsection A of this Section shall
61 be administered at the direction of a law enforcement officer having reasonable

1 grounds to believe the person to have been operating or in actual physical control of
2 a motor vehicle upon the public highways of this state which is involved in a
3 collision or crash or to have been operating or in physical control of a watercraft on
4 the waterways of this state involved in a collision, crash, or other casualty in which
5 a suspected serious injury or a fatality occurs, in order to determine the presence of
6 any ~~abused substance or controlled dangerous substance as set forth in R.S. 40:964~~
7 ~~or any other applicable provision of law~~, drug, combination of drugs, or any other
8 impairing substance. The law enforcement agency by which such officer is
9 employed shall designate in writing under what conditions the test or tests shall be
10 administered.

11 C. In the case of all traffic or boating fatalities, the coroner, or his designee,
12 shall perform or cause to be performed a toxicology screen on the deceased victim
13 or victims for determining evidence of the presence of any ~~abused substance or~~
14 ~~controlled dangerous substance as set forth in R.S. 40:964 or other applicable~~
15 ~~provision of law~~ drug, combination of drugs, or any other impairing substance which
16 shall include the extracting of all bodily substance samples necessary for such
17 toxicology screen. The coroner, or his designee, shall be responsible for ensuring the
18 body is not removed from his custody until such time as the bodily substance
19 samples are extracted. The coroner's report shall be made available to the
20 investigating law enforcement agency and may be admissible in any court of
21 competent jurisdiction as evidence of the presence of any ~~abused substance or~~
22 ~~controlled dangerous substance as set forth in R.S. 40:964 or other applicable~~
23 ~~provision of law~~ drug, combination of drugs, or any other impairing substance at the
24 time of the fatality. Nothing herein in this Subsection shall be construed to limit the
25 authority of the investigating law enforcement agency from conducting an
26 investigation of the accident scene concurrently with the coroner or his designee.

27 D. Any chemical test or tests of a person's blood, urine, or other bodily
28 substance for the purpose of determining the presence of any ~~abused substance or~~
29 ~~controlled dangerous substance as set forth in R.S. 40:964 or other applicable~~
30 ~~provision of law~~ drug, combination of drugs, or any other impairing substance shall
31 be administered in the same manner and subject to the provisions of Part XIV of this
32 Chapter.

33 * * *

34 H. As used in this Section, the term "drug" means any substance or
35 combination of substances that, when taken into the human body, may impair the
36 ability of the person to operate a vehicle safely."

37 AMENDMENT NO. 3

38 On page 10, at the beginning of line 4, change "Section 2." to "Section 3."