
DIGEST

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Lopinto

HB No. 424

Abstract: Provides that the minimum mandatory sentences for 3rd and subsequent DWI offenders may be suspended if the offender is accepted for participation in a drug division probation program and extends the time period within which to request an administrative hearing regarding a driver's license suspension after an arrest for operating a vehicle while intoxicated.

Present law (R.S. 14:98) provides for the following with respect to persons convicted of a third or subsequent offense of operating a vehicle while intoxicated:

- (1) On a conviction of a third offense, the offender shall be imprisoned for not less than one year nor more than five years and shall be fined \$2,000. One year of the sentence of imprisonment shall be imposed without benefit of parole, probation, or suspension of sentence.
- (2) On a conviction of a fourth or subsequent offense, the offender shall be imprisoned with or without hard labor for not less than 10 years nor more than 30 years and shall be fined \$5,000. Two years of the sentence of imprisonment shall be imposed without benefit of parole, probation, or suspension of sentence.

Present law (R.S. 13:5301, et seq.) allows each district court to establish a drug division probation program and authorizes alcohol- or drug-related offenders to participate in such programs when the offender meets certain criteria.

Proposed law amends present law, relative to the sentencing for a third or subsequent conviction of operating a vehicle while intoxicated, to authorize imposition of the minimum mandatory sentence with benefit of parole, probation, or suspension of sentence if the offender is accepted into a drug division probation program.

Proposed law further provides that if the offender has previously participated in a drug division probation program for a third offense of operating a vehicle while intoxicated, the offender shall not be eligible to serve his sentence with the benefit of parole, probation or suspension of sentence pursuant to the provisions of proposed law for a fourth or subsequent offense, but shall be imprisoned at hard labor for not less than 10 nor more than 30 years, and at least three years of the sentence shall be imposed without benefit of suspension of sentence, probation, or parole.

Present law provides for 15 days from the date of the arrest for operating a vehicle while

intoxicated to request an administrative hearing following the issuance of a temporary receipt for a driver's license.

Proposed law extends the time within which to request an administrative hearing from 15 days to 30 days from the date of the arrest.

Present law requires the Dept. of Public Safety and Corrections to forward the record of the case to the division of administrative law for a hearing within 60 days of the date of the arrest.

Proposed law amends present law to require DPS&C to forward the record of the case to the division of administrative law for a hearing within 60 days of the date of receipt of the written request for an administrative hearing.

Present law requires the installation of an ignition interlock device on any motor vehicle operated by the following:

- (1) Any person whose driver's license was suspended after such person refused to submit to a chemical test for intoxication for a second violation of operating a vehicle while intoxicated whose license was suspended in accordance with present law.
- (2) Any person who submitted to a chemical test where the results indicated a 0.08 percent blood alcohol content level and whose license was suspended for a violation occurring within five years of the first violation.

Proposed law makes present law applicable to an arrest.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 13:5304(O), R.S. 14:98(D)(1)(a), (E)(1)(a), and (K)(3)(a), and R.S. 32:667(A)(2) and (3), (B)(intro. para.), (D)(1), (H)(3), and (I)(1)(a) and (b); Adds R.S. 14:98(D)(4) and (E)(5))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Amended provisions requiring the installation of ignition interlock devices on vehicles operated by certain persons whose driver's license was suspended following an arrest for operating a vehicle while intoxicated.