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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

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SB 47 Engrossed

DIGEST  
2015 Regular Session

Perry

Present law provides that prosecutions in any city, parish, or municipal court (except for the city, municipal and traffic courts of the city of New Orleans) that arise out of the operation of a vehicle by a person while intoxicated may be charged and prosecuted under the provisions of present law relative to DWI, or under any applicable city, parish, or municipal ordinance that incorporates the standards, elements, and sentences of the offense of driving while intoxicated contained in present law. Present law further provides that any conviction for a first or second offense, or the entry of a plea of guilty and sentence based on such plea or the forfeiture of bail of any person having been charged with a first or second violation of present law relative to DWI in any such city, parish, or municipal court, is to be punished in accordance with the penalty provisions of present law relative to DWI.

Proposed law retains present law.

Present law provides that any conviction for a first or second offense of DWI, or the entry of a plea of guilty and sentence based on such plea or the forfeiture of bail of any person having been charged with a first or second violation of the applicable city, parish, or municipal ordinance in any such city, parish, or municipal court, is to be punished in accordance with the provisions of the ordinance and constitutes a conviction under present law relative to DWI for purposes of determining the number of prior convictions for DWI in a proceeding under present law.

Proposed law makes technical changes to citations in present law in order to conform to the provisions of present law enacted by Act No. 385 of the 2014 Regular Session.

Proposed law otherwise retains present law.

Present law provides that all city, parish, and municipal courts have concurrent jurisdiction with the district courts over violations otherwise subject to their jurisdiction provided for by present law relative to DWI, except in those cases in which the person or defendant is charged as a third or subsequent offender under the provisions of present law. Present law further provides that if the charge is for a third or subsequent offense of DWI, the prosecution is to be had only in the district court and the defendant has the right to a trial by jury. Present law further provides that mayors' courts have no jurisdiction whatsoever over violations of present law relative to DWI, nor to the trial of offenses against municipal ordinances relative to prosecutions on charges of DWI.

Proposed law makes technical changes to citations in present law in order to conform to the provisions of present law enacted by Act No. 385 of the 2014 Regular Session.

Proposed law otherwise retains present law.

Present law provides that DWI fines levied pursuant to the "Child Endangerment Law" relative to the presence of a child under 12 years of age in a motor vehicle at the time of the commission of the DWI offense, when such fines are collected in Caldwell, Catahoula, Concordia, Franklin, LaSalle, and Tensas parishes, are to be remitted to the Northeast Louisiana Substance Abuse Center.

Proposed law makes technical changes to citations in present law in order to conform to the provisions of present law enacted by Act No. 385 of the 2014 Regular Session.

Proposed law otherwise retains present law.

Present law provides that when a person submits to a blood test at the request of a law enforcement officer, only a physician, physician assistant, registered nurse, licensed practical nurse, emergency medical technician, chemist, nurse practitioner, or other qualified technician may withdraw blood for the purpose of determining the alcoholic content or presence of any abused or illegal controlled dangerous substances. Present law further provides that a licensed practical nurse can only withdraw blood as provided by present law pursuant to a subpoena or court order.

Proposed law repeals the present law prohibition against a licensed practical nurse withdrawing blood for a blood test without a subpoena or court order.

Proposed law otherwise retains present law.

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

(Amends R.S. 13:1894.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Repeals present law prohibition on a licensed practical nurse performing a blood test without a court order.