

RÉSUMÉ DIGEST

ACT 366 (HB 844)

2016 Regular Session

James

Existing law requires that upon suspension or denial of a license to drive due to impairment related offenses, the Dept. of Public Safety and Corrections shall immediately notify the person in writing and upon his request shall afford him an opportunity for a hearing.

Existing law provides that such hearing is limited to the following:

- (1) Whether a law enforcement officer had reasonable grounds to believe the person, regardless of age, had been driving or was in actual physical control of a motor vehicle upon the public highways of this state, or had been driving or was in actual physical control of a motor-powered watercraft upon the public navigable waterways of this state, while under the influence of either alcoholic beverages or any abused substance or controlled dangerous substance as set forth in present law (R.S. 40:964).
- (2) Whether the person was placed under arrest.
- (3) Whether he was advised by the officer as provided in present law (R.S. 32:661).
- (4) Whether he voluntarily submitted to an approved chemical test and whether the test resulted in a blood alcohol reading of 0.08% or above by weight, or of 0.02% or above if he was under the age of twenty-one years on the date of the test.
- (5) Whether he refused to submit to the test upon the request of the officer.
- (6) Such additional matters as may relate to the legal rights of the person, including compliance with regulations promulgated by the Dept. of Public Safety and Corrections and rights afforded to the person by law or jurisprudence.

Existing law provides that no law enforcement officer shall be compelled by the person requesting the hearing to appear or testify at such hearing and that there is a rebuttable presumption that any inconsistencies in evidence submitted by Dept. of Public Safety and Corrections and admitted at the hearing shall be strictly construed in favor of the person.

Existing law provides that after a person has exhausted his remedies with the Dept. of Public Safety and Corrections, he may file a petition in the appropriate court for a review of the final order of suspension or denial.

New law requires the licensee to serve the department with a copy of the petition and summons. Specifies that upon receipt of a copy of the petition for review, the department shall issue the licensee driving privileges, which are valid until the decision on the petition for review is final. Authorizes the court, on its own motion, or on the motion of either party, to modify or vacate such driving privileges upon a showing of good cause.

Existing law provides that upon the court's review, it may exercise any action it deems necessary under the law including ordering the department to grant the person restricted driving privileges.

New law limits the authority of the court to ordering only noncommercial driving privileges.

Effective August 1, 2016.

(Amends R.S. 32:668(C))