

2018 Regular Session

HOUSE BILL NO. 318

BY REPRESENTATIVE CONNICK

DWI: Provides relative to prior convictions of the crime of operating a vehicle while intoxicated

1 AN ACT

2 To amend and reenact R.S. 13:1894.1(A) and R.S. 14:98(C)(1)(e) and (3), relative to the
3 crime of operating a vehicle while intoxicated; to provide relative to the
4 determination of the existence of prior convictions for operating a vehicle while
5 intoxicated; to remove exceptions for certain New Orleans courts; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 13.1894.1(A) is hereby amended and reenacted to read as follows:

9 §1894.1. Driving while intoxicated, prosecutions for violation required to be filed
10 under general state law; city and municipal courts, New Orleans excepted

11 A. Notwithstanding any other provision of law to the contrary, including the
12 provisions of R.S. 13:1871, prosecutions in any city, parish, or municipal court, ~~the~~
13 ~~city, municipal and traffic courts of the city of New Orleans excepted~~, based on or
14 arising out of the operation of a vehicle by a person while intoxicated may be
15 charged and prosecuted under the provisions of R.S. 14:98 or under any applicable
16 city, parish, or municipal ordinance that incorporates the standards, elements, and
17 sentences of the offense of driving while intoxicated contained in R.S. 14:98. Any
18 conviction for a first or second offense or the entry of a plea of guilty and sentence
19 based on such plea or the forfeiture of bail of any person having been charged with
20 a first or second violation of R.S. 14:98 in any such city, parish, or municipal court

1 shall be punishable in accordance with the provisions of R.S. 14:98(D)(1) or ~~(D)(2)~~,
 2 whichever is applicable. Any conviction for a first or second offense or the entry of
 3 a plea of guilty and sentence based on such plea or the forfeiture of bail of any
 4 person having been charged with a first or second violation of the applicable city,
 5 parish, or municipal ordinance in any such city, parish, or municipal court shall be
 6 punishable in accordance with the provisions of the ordinance and shall constitute
 7 a conviction under R.S. 14:98 for purposes of determining the number of prior
 8 convictions in a proceeding under R.S. 14:98.

9 * * *

10 Section 2. R.S. 14:98(C)(1)(e) and (3) is hereby amended to read as follows:

11 §98. Operating a vehicle while intoxicated

12 * * *

13 C.(1) For purposes of determining whether a defendant has a prior
 14 conviction for a violation of this Section, a conviction under any of the following
 15 shall constitute a prior conviction:

16 * * *

17 (e) A law of any state or an ordinance of a municipality, town, or similar
 18 political subdivision of another state that prohibits the operation of any motor
 19 vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated,
 20 while impaired, or while under the influence of alcohol, drugs, or any controlled
 21 dangerous substance~~(-)~~, or as otherwise provided by R.S. 13:1894.1.

22 * * *

23 (3) For purposes of this Section, a prior conviction shall not include a
 24 conviction for an offense under this Section, a conviction for an offense under R.S.
 25 14:39.1, or a conviction under the laws of any state or an ordinance of a
 26 municipality, town, or similar political subdivision of another state which prohibits
 27 the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of
 28 conveyance while intoxicated, while impaired, or while under the influence of
 29 alcohol, drugs, or any controlled dangerous substance, or as otherwise provided by

1 R.S. 13:1894.1, if committed more than ten years prior to the commission of the
2 crime for which the defendant is being tried, and such conviction shall not be
3 considered in the assessment of penalties in this Section. However, periods of time
4 during which the offender was awaiting trial, under an order of attachment for failure
5 to appear, or on probation or parole for an offense described in this Paragraph, or
6 periods of time during which an offender was incarcerated in a penal institution in
7 this or any other state for any offense, including an offense described in Paragraph
8 (1) of this Subsection, shall be excluded in computing the ten-year period.

9 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 318 Original

2018 Regular Session

Connick

Abstract: Removes certain exceptions for New Orleans city, municipal, and traffic court DWI prosecutions relative to determining the existence of prior DWI convictions.

Present law provides that prosecutions in any city, parish, or municipal court, based on or arising out of DWI, may be charged and prosecuted under the state law DWI provisions or under any applicable city, parish, or municipal ordinance that incorporates the standards, elements, and sentences of state DWI law. Present law excepts the city, municipal and traffic courts of the city of New Orleans from this provision of present law.

Proposed law retains present law but removes the exception for New Orleans city, municipal, and traffic courts.

Present law provides that when determining whether a defendant has a prior conviction for DWI, a conviction of vehicular homicide, third degree feticide, vehicular negligent injuring, first degree vehicular negligent injuring, or a similar law of any state or an ordinance of a municipality, town, or similar political subdivision of another state, shall constitute a prior conviction.

Proposed law retains present law and includes prosecutions under proposed law, R.S. 13:1894.1.

(Amends R.S. 13:1894.1(A) and R.S. 14:98(C)(1)(e) and (3))