HLS 18RS-788 REENGROSSED

2018 Regular Session

HOUSE BILL NO. 318

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BY REPRESENTATIVE CONNICK

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

2 To amend and reenact R.S. 13:1894.1(A) and R.S. 14:98(C)(1)(e) and (3), relative to the

crime of operating a vehicle while intoxicated; to provide relative to the determination of the existence of prior convictions for operating a vehicle while intoxicated; to remove exceptions for certain New Orleans courts; and to provide for related matters.

AN ACT

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:1894.1(A) is hereby amended and reenacted to read as follows: §1894.1. Driving while intoxicated, prosecutions for violation required to be filed under general state law; city and municipal courts, New Orleans excepted

A. Notwithstanding any other provision of law to the contrary, including the provisions of R.S. 13:1871; prosecutions in any city, parish, or municipal court, the city, municipal and traffic courts of the city of New Orleans excepted, based on or arising out of the operation of a vehicle by a person while intoxicated may be charged and prosecuted under the provisions of R.S. 14:98 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 R.S. 14:98. 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 R.S. 14:98 in any such city, parish, or municipal court

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1 shall be punishable in accordance with the provisions of R.S. 14:98(D)(1) or  $\frac{(D)}{(2)}$ , 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 Section 2. R.S. 14:98(C)(1)(e) and (3) are hereby amended to read as follows: 10 11 §98. Operating a vehicle while intoxicated 12 C.(1) For purposes of determining whether a defendant has a prior 13 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

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

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

#### **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 Reengrossed

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.

<u>Present law</u> 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. <u>Present law</u> excepts the city, municipal and traffic courts of the city of New Orleans from this provision of present law.

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

<u>Present law</u> 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.

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

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

### Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Administration of Criminal Justice</u> to the <u>original</u> bill:

1. Remove reference to <u>present law</u> exception for New Orleans from the <u>present law</u> Section heading to conform with <u>proposed law</u>.

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2. Make technical correction to citation.

# The House Floor Amendments to the engrossed bill:

1. To conform with provisions of <u>proposed law</u>, remove a reference to a provision of <u>present law</u> which excludes city, municipal, and traffic courts of the city of New Orleans from the application of the <u>present law</u> which provides relative to city courts.