

SENATE BILL NO. 138

BY SENATORS GATTI, BARROW, CARTER, COLOMB, HENSGENS, MILLS, PEACOCK, GARY SMITH AND WHITE AND REPRESENTATIVES ADAMS, AMEDEE, ANDERS, CREWS, GISCLAIR, HILL, HORTON, JEFFERSON, LACOMBE, MAGEE, MCMAHEN, THOMAS, WHITE AND ZERINGUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 32:681 and to enact R.S. 32:681(E), (F), and (G), relative to
3 postaccident drug testing under certain circumstances involving serious bodily
4 injury; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 32:681 is hereby amended and reenacted and R.S. 32:681(E), (F) and
7 (G) are hereby enacted to read as follows:

8 §681. Postaccident drug testing; accidents involving fatalities, required

9 A. The operator of any motor vehicle or watercraft which is involved in a
10 collision or crash ~~or the operator of any watercraft involved in a collision, crash, or~~
11 ~~other casualty in which a fatality occurs~~ on the public highways, including
12 waterways, shall be deemed to have given consent to, and shall be administered, a
13 chemical test or tests of his blood, urine, or other bodily ~~substance~~ substances for
14 the purpose of determining the presence of any abused substance or controlled
15 dangerous substance as set forth in R.S. 40:964 or other applicable provision of
16 law or any other impairing substance, under any of the following circumstances:

17 (1) A fatality occurs.

18 (2) It is foreseeable that a citation for a traffic violation or an arrest is
19 imminent and the investigating officer finds that a bodily injury occurred that

1 is rated as "suspected serious injury" on the Uniform Motor Vehicle Traffic
 2 Crash Report.

3 (3) The operator voluntarily agrees to submit to a chemical test.

4 (4) A search warrant is issued, ordering the collection and testing of any
 5 bodily substance for purposes of this Section.

6 B. The test or tests required pursuant to Subsection A of this Section shall
 7 be administered at the direction of a law enforcement officer having reasonable
 8 grounds to believe the person to have been ~~driving~~ operating or in actual physical
 9 control of a motor vehicle upon the public highways of this state which is involved
 10 in a collision or crash or to have been operating or in physical control of a watercraft
 11 on the waterways of this state involved in a collision, crash, or other casualty in
 12 which a suspected serious injury or a fatality occurs, in order to determine the
 13 presence of any abused substance or controlled dangerous substance as set forth
 14 in R.S. 40:964 or any other applicable provision of law, or any other impairing
 15 substance. The law enforcement agency by which such officer is employed shall
 16 designate in writing under what conditions the test or tests shall be administered.

17 C. In the case of all traffic or boating fatalities, the coroner, or his designee,
 18 shall perform or cause to be performed a toxicology screen on the deceased victim
 19 or victims ~~of all traffic fatalities~~ for determining evidence of the presence of any
 20 abused substance or controlled dangerous substance as set forth in R.S. 40:964 or
 21 other applicable provision of law, or any other impairing substance which shall
 22 include the extracting of all bodily substance samples necessary for such toxicology
 23 screen. The coroner, or his designee, shall be responsible for ensuring the body is
 24 not removed from his custody until such time as the bodily substance samples are
 25 extracted. The coroner's report shall be made available to the investigating law
 26 enforcement agency and may be admissible in any court of competent jurisdiction
 27 as evidence of the presence of any abused substance or controlled dangerous
 28 substance as set forth in R.S. 40:964 or other applicable provision of law, or any
 29 other impairing substance at the time of the fatality. Nothing herein shall be
 30 construed to limit the authority of the investigating law enforcement agency from

1 conducting an investigation of the accident scene concurrently with the coroner or
2 his designee.

3 D. Any chemical test or tests of a person's blood, urine, or other bodily
4 substance for the purpose of determining the presence of any abused substance or
5 controlled dangerous substance as set forth in R.S. 40:964 **or other applicable**
6 **provision of law**, or any other impairing substance shall be administered in the same
7 manner and subject to the provisions of Part XIV of this Chapter.

8 **E. For the purposes of this Section, "suspected serious injury", as**
9 **provided for in the Fourth Edition of the Model Minimum Uniform Crash**
10 **Criteria Guideline, means any injury other than fatal which results in any of the**
11 **following:**

12 **(a) Severe laceration resulting in exposure of underlying tissues, muscle,**
13 **or organs, or resulting in a significant loss of blood.**

14 **(b) Broken or distorted extremity.**

15 **(c) Crush injuries.**

16 **(d) Suspected skull, chest, or abdominal injury other than bruises or**
17 **minor lacerations.**

18 **(e) Significant burns.**

19 **(f) Unconsciousness when taken from the crash scene.**

20 **(g) Paralysis.**

21 **F. Neither the law enforcement officer nor the law enforcement agency**
22 **employing the law enforcement officer shall be liable, civilly or criminally, for**
23 **any action or omission taken in response to this Section.**

24 **G. This Section shall be known and may be cited as "Katie Bug's Law".**

25 Section 2. The Department of Public Safety and Corrections shall adopt rules and
26 regulations, including updating the Uniform Motor Vehicle Traffic Crash Report, to
27 implement the provisions of this Act.

28 Section 3. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____