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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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DIGEST

SB 322 Engrossed

2020 Regular Session

Smith

Present law provides that when a law enforcement officer requests that a person submit to a chemical test as provided for by present law he must first read to the person a standardized form approved by the Dept. of Public Safety and Corrections. Present law further provides that the department is authorized to use such language in the form as it deems proper, provided that the form inform the person of the following:

- (1) His constitutional rights under Miranda v. Arizona.
- (2) That his driving privileges can be suspended for refusing to submit to the chemical test.
- (3) That his driving privileges can be suspended if he submits to the chemical test and such test results show a blood alcohol level of 0.08 % or above or, if he is under the age of 21 years, a blood alcohol level of 0.02 % or above.
- (4) That his driving privileges can be suspended if he submits to the chemical test and the test results show a positive reading indicating the presence of any controlled dangerous substance listed in present law (Schedules I - V of the Uniform Controlled Dangerous Substances Law).
- (5) The name and employing agency of all law enforcement officers involved in the stop, detention, investigation, or arrest of the person.
- (6) That refusal to submit to a chemical test after an arrest for an offense of driving while intoxicated if he has refused to submit to such test on two previous occasions of any such violation is a crime under present law and the penalties for such crime are the same as the penalties for first conviction of driving while intoxicated.

Proposed law retains present law and adds that the department may exclude the warning listed in Item (4), above, until such time as the legislature enacts a suspension for test results showing a positive reading indicating the presence of any controlled dangerous substance listed in present law.

Present law provides that when a law enforcement officer places a person under arrest for operating while intoxicated or similar parish or municipal ordinance, and the person either refuses to submit to an approved chemical test or submits to the test and the test results show a blood alcohol level of 0.08% or above by weight or, if the person is under the age of 21 years, a blood alcohol level of 0.02% or above by weight, the officer is to seize the driver's license of the person under arrest and issue in its place a temporary receipt of license. Present law further provides that this temporary receipt serves as notice to the person that he has 30 days from the date of arrest to make written request to the department for an administrative hearing.

Proposed law retains present law and adds that the notice issued to the person must include the name and employing agency of all law enforcement officers actively participating or involved in the traffic stop, detention, investigation, or arrest of the person.

Present law provides that in addition to any other penalty, an ignition interlock device is to be installed in any motor vehicle operated by a person whose driver's license has been suspended for failure to submit to a chemical test for intoxication as provided for in present law. Present law further provides that when the driver's license is suspended for failure to submit to a chemical test, the ignition interlock device must remain on the motor vehicle for the same period as the suspension, with credit for time when the interlock device was installed and functioning as part of a restricted driver's license.

Proposed law retains present law and adds that the person is entitled to credit for time when the ignition interlock device is monitored in accordance with present law that provides that the person is entitled to credit when either the installation and monitoring of the ignition interlock device is reported to the department by the manufacturer of the device pursuant to present law, or when the person whose driving privilege is restricted appears at an office of motor vehicles field office and is issued a renewed or duplicate driver's license that contains a restriction code indicating that any vehicle operated by the individual must be equipped with an ignition interlock device.

Present law provides that when a law enforcement officer places a person under arrest for the crime of vehicular homicide, the officer is to seize the driver's license of a person under arrest and issue in its place a temporary receipt of license on a form approved by the department.

Proposed law retains present law and adds that present law applies when a certificate of arrest has not already been submitted to the office of motor vehicles pursuant to present law for a submission or for a refusal to submit to a chemical test for intoxication.

Present law provides that when a nonresident driver refuses to take an approved chemical test as provided for in present law, the arresting officer or agency is to notify the department, which will give information, in writing, to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

Proposed law makes present law applicable when the nonresident driver submits to the chemical test as well as when the nonresident driver refuses to take the test. Proposed law otherwise retains present law.

Proposed law makes technical changes to take into account recent changes to present law relative to operating while intoxicated.

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

(Amends R.S. 14:98.7(A) and R.S. 32:661(C)(1)(d) and (e), 666(A)(1)(a)(i) and (3), 667(A)(intro para), (C), (H)(3), and (I)(1)(a), (c), and (d) and (2), 667.1(A)(intro para), and 669(A); adds R.S. 32:661(D); repeals R.S. 32:661(C)(1)(f))