

2021 Regular Session

HOUSE BILL NO. 500

BY REPRESENTATIVE MCMAHEN

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

CHILDREN/SUPPORT: Provides relative to the prohibition against alcohol consumption for noncompliance of child support orders

1 AN ACT

2 To amend and reenact the headings of Subparts C and D of Part III of Chapter 1 of Code

3 Title V of Title 9 of the Louisiana Revised Statutes of 1950, R.S. 9:315.30, 315.32,

4 315.34(B)(1), 315.36, 315.41(A) and (B)(1) and (6), 315.42, 315.44, 315.46(B) and

5 (C), and R.S. 26:90(I), to enact R.S. 26:90(A)(17), R.S. 32:412(R), and R.S.

6 40:1321(S), relative to the nonpayment of child support; to provide for the judicial

7 and administrative prohibition against the purchase or consumption of alcoholic

8 beverages upon nonpayment of child support; to provide for judicial and

9 administrative suspension of licenses; to provide for the duties of the court; to

10 provide for the duties of the Department of Children and Family Services; to provide

11 for the order of prohibition; to provide for the certification of nonpayment of child

12 support; to provide for drivers licenses and special identification cards; to provide

13 for the duties of certain vendors of alcohol; to provide a penalty for violation of

14 prohibition against selling or serving alcohol in certain circumstances; to provide for

15 redesignation; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. The heading of Subparts C and D of Part III of Chapter 1 of Code Title

18 V of Title 9 of the Louisiana Revised Statutes of 1950, R.S. 9:315.30, 315.32, 315.34(B)(1),

19 315.36, 315.41(A) and (B)(1) and (6), 315.42, 315.44, and 315.46(B) and (C) are hereby

20 amended and reenacted to read as follows:

1 an obligor who is not in compliance with an order of child support from purchasing
2 or consuming alcohol. The reasons shall become part of the record of the proceeding.

3 (2) An order prohibiting the purchase or consumption of alcohol shall:

4 (a) Contain the name, address, license or special identification number, and
5 social security number of the obligor.

6 (b) Order the cancellation of any prior licenses to operate a motor vehicle or
7 special identification cards of the obligor.

8 (3) The court shall report the order to the deputy secretary of the Department
9 of Public Safety and Corrections within two days of issuing the order. The court shall
10 inform the obligor that his license or special identification card is subject to
11 cancellation and that he is required pursuant to R.S. 40:1321(S) to obtain a new
12 special identification card or license listing the prohibition.

13 B.(1)(a) In or ancillary to any action to make past-due child support
14 executory, for contempt of court for failure to comply with an order of support, or
15 a criminal neglect of family proceeding, no earlier than six months after issuing a
16 prohibition order pursuant to Subsection A of this Section, the court on its own
17 motion or upon motion of an obligee or the department ~~shall~~ may, unless the court
18 determines good cause exists, issue an order of suspension of a license or licenses
19 of any obligor who is not in compliance with an order of child support. The court
20 shall give specific written and oral reasons supporting its determination of good
21 cause including a finding as to the particular facts and circumstances that warrant a
22 determination not to suspend a license or licenses of an obligor who is not in
23 compliance with an order of child support. The reasons shall become part of the
24 record of the proceeding.

25 (b) An order suspending a license to operate a motor vehicle may provide
26 specific time periods for the suspension at the court's discretion.

27 (2) In or ancillary to any child support or paternity proceeding, the court on
28 its own motion or upon motion of any party or the department may issue an order of
29 suspension of a license of any person who is guilty of contempt of court for failure

1 to comply with a subpoena or warrant. Provided that before the issuance of an order
2 for a suspension of a license of any person in, or ancillary to, any paternity
3 proceeding where paternity has not yet been established, the court shall notify such
4 person by personal service.

5 ~~B.(3)~~ The order of suspension shall contain the name, address, and social
6 security number of the obligor, if known, and shall indicate whether the suspension
7 is for a particular, specified license, or all licenses which the obligor may possess,
8 or any combination thereof at the discretion of the court.

9 ~~C.(4)~~ An order of suspension may include a provision whereby the obligor
10 is required to disclose to the court information concerning the types of licenses
11 which the obligor possesses, which written disclosure when attached to the order of
12 suspension becomes a part thereof.

13 * * *

14 §315.34. Subsequent compliance; order of compliance; order of partial compliance

15 * * *

16 B.(1) Upon motion of an obligor who is in subsequent compliance with an
17 order of support and after a contradictory hearing or upon rescission of an order of
18 contempt, the court shall issue an order of compliance indicating that the obligor is
19 eligible to have the prohibition order revoked and all licenses reissued. In cases
20 where the department is providing support enforcement services, the court shall issue
21 an ex parte order of compliance upon filing of written certification by the department
22 that the obligor is in compliance.

23 * * *

24 §315.36. Prohibition against the purchase or consumption of alcoholic beverages;

25 ~~Suspension~~ suspension of license; pattern of nonpayment

26 Notwithstanding any other provisions to the contrary in this Subpart, the
27 court on its own motion or upon motion of an obligee or the department shall issue
28 an order of prohibition against the purchase or consumption of alcoholic beverages
29 or suspension of a license or licenses pursuant to R.S. 9:315.32 of any obligor upon

1 proof of a pattern of nonpayment evidenced by his failure to pay child support on a
2 regular basis, the remittance of payments of support only after continuous requests
3 or legal action by or on behalf of the obligee, or the remittance of a de minimis
4 amount of the child support owed.

5 SUBPART D. ADMINISTRATIVE PROHIBITION AGAINST
6 PURCHASING OR CONSUMING ALCOHOL AND SUSPENSION
7 OF CERTAIN LICENSES FOR NONPAYMENT OF CHILD SUPPORT

8 * * *

9 §315.41. Notice of child support delinquency; prohibition against purchasing or
10 consuming alcohol; suspension of license

11 A. The department may send by certified mail, return receipt requested, a
12 notice of child support delinquency to an obligor who is not in compliance with an
13 order of support informing the obligor of the department's intention to prohibit the
14 obligor from purchasing or consuming alcohol and no less than six months later
15 submit ~~his~~ the obligor's name to ~~the~~ a licensing authority for suspension of his
16 license. If an obligor holds multiple licenses, the department may issue a single
17 notice of its intention to submit multiple suspensions. When the obligor has one or
18 more motor vehicles, personal watercraft, motorboats, sailboats, all-terrain vehicles
19 or trailers registered in his name, the notice shall inform the obligor of the
20 department's intention to suspend the registration of all of them as well. A non-
21 obligor spouse who uses any such vehicle may so inform the department by
22 notarized affidavit, and thereby retain the use of that vehicle and its license.

23 B. A notice of child support delinquency shall include all of the following:

24 (1) A summary of the obligor's right to file a written objection to the
25 prohibition against purchase or consumption of alcohol and suspension of his license,
26 including the time within which such objection must be filed and the address where
27 the objection must be filed.

28 * * *

1 (6) A brief summary of what the obligor must do to come into compliance
2 or to forestall the prohibition and suspension.

3 * * *

4 §315.42. Objection to ~~suspension of license~~ notice of delinquency

5 ~~A.~~ Within twenty days after receipt of the notice of child support
6 delinquency, the obligor may file a written objection with the department requesting
7 an administrative hearing to determine whether the obligor is in compliance with an
8 order of support.

9 ~~B. If the obligor does not timely file a written objection or enter into a~~
10 ~~written agreement with the department to make periodic payments on a support~~
11 ~~arrears and he is not in compliance with an order of support, the department shall~~
12 ~~certify the obligor's noncompliance to the licensing authority for license suspension.~~

13 * * *

14 §315.44. ~~Certification of noncompliance~~ Noncompliance; certification

15 A. ~~The department may certify to the licensing authority that a licensee~~ An
16 obligor is not in compliance with an order of support in the event of any of the
17 following:

18 (1) The obligor has not timely filed an objection to the notice of child
19 support delinquency, he is not in compliance with an order of support, and more than
20 twenty days have passed after service of the notice of child support delinquency.

21 (2) The obligor has not entered into a written agreement with the department
22 to make periodic payments on a support arrearage and he is not in compliance with
23 an order of support.

24 (3) The obligor has timely filed an objection to the notice of child support
25 delinquency and an adverse decision or order was issued after the administrative
26 hearing, rehearing, or judicial review and all legal delays have lapsed.

27 ~~(3)~~(4) The department receives a certified copy of a final judgment in an
28 action to make executory past-due payments under a child support award and the

1 judgment specifically provides for the prohibition against the purchase or
2 consumption of alcohol or the suspension or revocation of the obligor's license.

3 ~~(4)~~(5) The department receives a certified copy of a final judgment or order
4 finding the obligor to be in violation of R.S. 14:74 (criminal neglect of family).

5 B. When an obligor is not in compliance with an order of support, the
6 department shall do the following:

7 (1) Prohibit the obligor from purchasing or consuming alcohol.

8 (2) Certify the noncompliance to the deputy secretary of the Department of
9 Public Safety and Corrections for cancellation of the obligor's license or special
10 identification card.

11 (3) Inform the obligor that his license or special identification card is subject
12 to cancellation and that he is required pursuant to R.S. 40:1321(S) to obtain a new
13 special identification card or license listing the prohibition against purchasing or
14 consuming alcohol.

15 (4) If the obligor remains noncompliant six months after the department
16 issued the prohibition against purchasing or consuming alcohol, certify the obligor's
17 noncompliance to the licensing authority for license suspension. The department
18 may delay certification of noncompliance for license suspension past the six month
19 period for good cause shown. The department shall give specific written reasons
20 supporting its determination of good cause including a finding as to the particular
21 facts and circumstances that warrant a determination not to suspend the obligor's
22 license.

23 C. An obligor is not entitled to the notice of child support delinquency,
24 required by R.S. 9:315.41, when certification of noncompliance is pursuant to
25 Paragraph (A)~~(3)~~ or (4) or (5) of this Section.

26 ~~C.~~D. The certification shall be in writing unless the department and licensing
27 authority agree that the department will transmit the certification in an electronic
28 format. The department may enter into an interagency agreement with a licensing

1 authority to facilitate the development, implementation, and use of a transmission
2 system.

3 * * *

4 §315.46. Subsequent compliance with support order; compliance and partial
5 compliance releases

6 * * *

7 B. At the request of an obligor who is in subsequent compliance with an
8 order of support, the department shall revoke the prohibition against purchasing or
9 consuming alcohol and issue a compliance release certificate indicating that the
10 obligor is eligible to have his license reissued without the restrictions imposed
11 pursuant to this Subpart.

12 C. At the request of an obligor who provides evidence of his ability to
13 comply with the support order and who enters into a written agreement with the
14 department, the department may revoke the prohibition against purchasing or
15 consuming alcohol and issue a certificate of partial compliance requesting that the
16 restriction or suspension be lifted or modified. The secretary of the department shall
17 have the authority to promulgate rules and regulations and take such action as may
18 be necessary to implement the provisions of this Section.

19 * * *

20 Section 2. R.S. 26:90(I) is hereby amended and reenacted and R.S. 26:90(A)(17) is
21 hereby enacted to read as follows:

22 §90. Acts prohibited on licensed premises; suspension or revocation of permits

23 A. No person holding a retail dealer's permit, and no person permitted to sell
24 alcoholic beverages at retail to consumers, and no agent, associate, employee,
25 representative, or servant of any such person shall do or permit any of the following
26 acts to be done on or about the licensed premises:

27 * * *

28 (17) Sell or serve alcoholic beverages to any person who pursuant to R.S.
29 9:315.32 or 315.44 is prohibited from purchasing or consuming alcohol, which can

1 be verified by a valid, current, driver's license or special identification card issued
2 by the state of Louisiana containing a photograph of the person presenting the license
3 or identification card.

4 * * *

5 I.(1) Except as provided in Paragraph (2) of this Subsection, ~~Violation~~
6 violation of this Section is punishable as provided in R.S. 26:171 and is also
7 sufficient cause for the suspension or revocation of a permit.

8 (2) Any person, including the person who holds a retail dealer's permit and
9 any agent, associate, employee, representative, or servant of any such person, who
10 violates Paragraph(A)(17) of this Section shall be fined five hundred dollars.
11 Multiple violations of Paragraph(A)(17) of this Section within a six month period are
12 sufficient cause for the suspension or revocation of a permit.

13 * * *

14 Section 3. R.S. 32:412(R) is hereby enacted to read as follows:

15 §412. Amount of fees; credit or refund; duration of license; veteran designation;
16 disabled veteran designation; university logo; "I'm a Cajun" designation;
17 needs accommodation designation; autism spectrum disorder designation;
18 prohibition designation; disbursement of funds; renewal by mail or electronic
19 commerce of Class "D" or "E" drivers' licenses; disposition of certain fees;
20 exception

21 * * *

22 R.(1) The Louisiana driver's license, regardless of its class, issued to any
23 person who is prohibited from purchasing or consuming alcohol pursuant to R.S.
24 9:315.32 or 315.44 shall contain a restriction code which declares that the license
25 holder is prohibited from consuming or purchasing alcohol. The driver's license
26 shall include the letter "A" which shall be red in color. Any prior license of the
27 person shall be cancelled. The secretary of the Department of Public Safety and
28 Corrections shall comply with the provisions of this Subsection upon receipt of an

1 order of prohibition issued pursuant to R.S. 9:315.32 or certification of
2 noncompliance issued pursuant to 315.44.

3 (2) Any person to whom this Subsection applies shall carry upon his person
4 the last driver's license issued to him.

5 (3) The person shall be responsible for all fees necessary for the cancellation
6 and issuance of licenses pursuant to this Section.

7 (4) The deputy secretary of the Department of Public Safety and Corrections,
8 public safety services, shall establish such rules and regulations as are necessary to
9 implement the provisions of this Subsection.

10 * * *

11 Section 4. R.S. 40:1321(S) is hereby enacted to read as follows:

12 §1321. Special identification cards; issuance; veteran designation; disabled veteran
13 designation; university logo; "I'm a Cajun" designation; needs
14 accommodation designation; prohibition designation; fees; expiration and
15 renewal; exceptions; promulgation of rules; promotion of use; persons less
16 than twenty-one years of age; the Protect and Save our Children Program;
17 Selective Service Registration

18 * * *

19 S.(1) Any person prohibited from purchasing or consuming alcohol pursuant
20 to R.S. 9:315.32 or 315.44 shall obtain, only if the person does not have a valid
21 license in accordance with R.S. 34:412(R), a special identification card issued by the
22 Department of Public Safety and Corrections which shall contain a restriction code
23 which declares that the license holder is prohibited from consuming or purchasing
24 alcohol. The driver's license shall include the letter "A" which shall be red in color.
25 Any prior special identification card of the person shall be cancelled. The secretary
26 of the Department of Public Safety and Corrections shall comply with the provisions
27 of this Subsection upon receipt of an order of prohibition issued pursuant to R.S.
28 9:315.32 or certification of noncompliance issued pursuant to 315.44.

1 (2) This special identification card shall be carried at all times by the
2 individual prohibited from purchasing or consuming alcohol.

3 (3) The person shall be responsible for all fees necessary for the cancellation
4 and issuance of special identification cards pursuant to this Section.

5 (4) The deputy secretary of the Department of Public Safety and Corrections,
6 public safety services, shall establish such rules and regulations as are necessary to
7 implement the provisions of this Subsection.

8 (5) Whoever violates this Subsection shall be fined not less than one hundred
9 dollars and not more than five hundred dollars, or imprisoned for not more than six
10 months, or both.

11 Section 5. The Louisiana State Law Institute is hereby authorized and directed to
12 renumber R.S.26:90(K) as a paragraph of R.S. 26:90(A).

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 500 Original

2021 Regular Session

McMahan

Abstract: Provides for the prohibition against alcohol consumption for noncompliance of child support orders and the placement of restrictions on drivers' licenses.

Judicial prohibition

Proposed law provides that in or ancillary to any action to make past-due child support executory, for contempt of court for failure to comply with an order of support, or a criminal neglect of family proceeding the court on its own motion or upon motion of an obligee or the Department of Children and Family Services (DCFS) shall, unless the court determines good cause exists, issue an order prohibiting any obligor who is not in compliance with an order of child support from purchasing or consuming alcohol.

Proposed law provides that the court shall give specific written and oral reasons supporting its determination of good cause including a finding as to the facts and circumstances that warrant a determination not to prohibit the obligor from purchasing or consuming alcohol. The reasons shall become part of the record of the proceeding.

Proposed law provides that an order prohibiting the purchase or consumption of alcohol shall contain certain information and order the cancellation of any prior licenses to operate a motor vehicle or special identification cards of the obligor.

Proposed law provides that the court shall report the order to the Department of Public Safety and Corrections (DPSC) within two days of issuing the order and inform the obligor that his license or special identification card is subject to cancellation and he is required to obtain a new special identification card or license listing the prohibition.

Present law provides that a court shall order the suspension of licenses of any obligor who is not in compliance with an order of child support.

Proposed law provides that a court may order the suspension of licenses no earlier than six months after issuing a prohibition order pursuant to proposed law.

Present law provides that upon motion of the obligor and contradictory hearing or rescission of an order of contempt, the court shall issue an order of compliance indicating the obligor is eligible to have all licenses reissued.

Proposed law retains present law and provides the court shall include in the order of compliance an indication that the obligor is eligible to have the prohibition order revoked.

Present law provides that the court shall issue an order of suspension of a license of any obligor upon proof of certain conditions.

Proposed law retains present law and provides that the court shall issue an order of prohibition or suspension under the same conditions provided by present law.

Administrative prohibition

Present law provides that DCFS may send a notice of child support delinquency to an obligor who is not in compliance with an order of support informing him of DCFS's intention to submit his name to the licensing authority for suspension of his license.

Proposed law provides that DCFS shall, in its notice, inform the obligor of the department's intention to prohibit the obligor from purchasing or consuming alcohol and no less than six months later submit the obligor's name to a licensing authority for suspension of his license.

Present law requires that the notice of child support delinquency include a summary of the obligor's right to file an objection to the suspension of his license and a brief summary of what the obligor must do to come into compliance or forestall the suspension.

Proposed law retains present law and provides the notice contain the same information relative to the prohibition against purchasing or consuming alcohol.

Present law provides that DCFS may certify to the licensing authority that a licensee is not in compliance with an order of support if DCFS receives a final judgment in an action to make executory past-due payments under a child support and the judgment provides for the suspension or revocation of the obligor's license.

Proposed law provides that when an obligor is not in compliance with an order of support, the department shall do the following:

- (1) Prohibit the obligor from purchasing or consuming alcohol.
- (2) Certify the noncompliance to DPSC for cancellation of the obligor's license or special identification card.
- (3) Inform the obligor that his license or special identification card is subject to cancellation and that he is required to obtain a new special identification card or license listing the prohibition against purchasing or consuming alcohol.

Proposed law provides that if the obligor remains noncompliant six months after DCFS issued the prohibition against purchasing or consuming alcohol, DCFS shall certify the obligor's noncompliance to the licensing authority for license suspension in the manner provided by present law.

Proposed law provides that DCFS may delay certification of noncompliance for license suspension past the six month period for good cause shown and shall give specific written reasons supporting its determination including a finding as to the particular facts and circumstances that warrant a determination not to suspend the obligor's license.

Present law provides that at the request of an obligor who is in subsequent compliance with an order of support or provides evidence of his ability to comply with the support order and who enters into a written agreement with DCFS, DCFS shall issue a compliance release certificate indicating that the obligor is eligible to have his license reissued

Proposed law retains present law and provides that DCFS shall revoke the prohibition against purchasing or consuming alcohol under the same conditions provided by present law.

Persons permitted to sell alcoholic beverages

Present law prohibits certain persons permitted to sell alcoholic beverages from engaging in or permitting certain acts to be done on or about the licensed premises.

Proposed law provides that no such person shall sell or serve alcoholic beverages to any person who is prohibited from purchasing or consuming alcohol pursuant to proposed law, which can be verified by a valid, current, driver's license or special identification card containing a photograph of the person presenting the license or identification card.

Proposed law provides that any person, including the person who holds a retail dealer's permit and any agent, associate, employee, representative, or servant of any such person, who violates proposed law shall be fined five hundred dollars.

Proposed law further provides that multiple violations within a six month period are sufficient cause for the suspension or revocation of a permit.

Issuance of drivers' licenses and special identification cards

Proposed law provides that the drivers' license issued to any person who is prohibited from purchasing or consuming alcohol shall contain a restriction code which declares that the license holder is prohibited from consuming or purchasing alcohol and any prior license of the person shall be cancelled.

Proposed law provides that if the person does not have a valid drivers' license, he shall obtain a special identification card issued by DPSC containing the same restriction code and any prior identification card shall be cancelled.

Proposed law provides that violation of proposed law provisions relative to the issuance of the special identification card result in a fine of not less than \$100 and not more than \$500 or imprisonment of not more than six months, or both.

Proposed law provides that the driver's license or special identification card shall include the letter "A" which shall be red in color.

Proposed law provides that the person shall carry upon his person the last driver's license or special identification card issued to him and shall be responsible for all fees necessary for the cancellation and issuance thereof.

Proposed law provides that the secretary of DPSC shall comply with proposed law upon receipt of an order of prohibition or certification of noncompliance and shall establish such rules and regulations as are necessary to implement the provisions of proposed law.

Proposed law directs the La. State Law Institute to predesignate a misplaced provision of present law.

(Amends the headings of Subparts C and D of Part III of Ch. 1 of Code Title V of Title 9 of the La. R.S. of 1950, R.S. 9:315.30, 315.32, 315.34(B)(1), 315.36, 315.41(A) and (B)(1) and (6), 315.42, 315.44, 315.46(B) and (C), and R.S. 26:90(I); Adds R.S. 26:90(A)(17), R.S. 32:412(R), and R.S. 40:1321(S))