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## DIGEST

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HB 500 Original

2021 Regular Session

McMahen

**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))