

2023 Regular Session

HOUSE BILL NO. 575

BY REPRESENTATIVE ADAMS

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

MOTOR VEHICLES: Provides relative to offense penalties for driving a vehicle while intoxicated

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

AN ACT

To amend and reenact R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b), and R.S. 32:378.2(B)(1)(a)(ii), (aa), and (bb), 414(A)(1)(c), (i), and (ii), 667(B)(1)(b) and (c) and (3) and to enact R.S. 14:98(b) and 98.2(b), to change references to criminal offenses for driving while intoxicated; to provide relative to restricted driver's licenses; to provide relative to first and second offense penalties for operating a vehicle while intoxicated; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b) are hereby amended and reenacted to read as follows:

§98.1. Operating while intoxicated; first offense; penalties

A.

* * *

(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the

1 offense, including imprisonment for default in payment of a fine or costs, shall not
2 exceed six months.

3 (b) In addition to any penalties imposed under this Section, upon conviction
4 of a first offense violation of R.S. 14:98, if the offender had a blood alcohol
5 concentration of 0.15 percent or more by weight based on grams of alcohol per one
6 hundred cubic centimeters of blood, the driver's license of the offender shall be
7 suspended for two years.

8 (3)

9 * * *

10 (b) In addition to any penalties imposed under this Section, upon conviction
11 of a first offense, if the offender had a blood alcohol concentration of ~~0.20~~ 0.15
12 percent or more by weight based on grams of alcohol per one hundred cubic
13 centimeters of blood, the driver's license of the offender shall be suspended for two
14 years.

15 * * *

16 §98.2. Operating while intoxicated; second offense; penalties

17 A.

18 * * *

19 (2)(a) If the offender had a blood alcohol concentration of 0.15 percent or
20 more but less than 0.20 percent by weight based on grams of alcohol per one hundred
21 cubic centimeters of blood, at least ninety-six hours of the sentence imposed
22 pursuant to Paragraph (1) of this Subsection shall be served without the benefit of
23 parole, probation, or suspension of sentence.

24 (b) In addition to any penalties imposed under this Section, upon conviction
25 of a second offense violation of R.S. 14:98, if the offender had a blood alcohol
26 concentration of 0.15 percent or more by weight based on grams of alcohol per one
27 hundred cubic centimeters of blood, the driver's license of the offender shall be
28 suspended for four years.

29 (3)

30 * * *

1 (b) In addition to any penalties imposed under this Section, upon conviction
2 of a second offense violation of R.S. 14:98, if the offender had a blood alcohol
3 concentration of ~~0.20~~ 0.15 percent or more by weight based on grams of alcohol per
4 one hundred cubic centimeters of blood, the driver's license of the offender shall be
5 suspended for four years.

6 * * *

7 Section 2. R.S. 32:378.2(B)(1)(a)(ii), (aa), (bb), 414(A)(1)(c), (i), and (ii),
8 667(B)(1)(b) and (c), and (3) are hereby amended and reenacted to read as follows:

9 §378.2. Ignition interlock devices; condition of probation for certain DWI
10 offenders; restricted license

11 * * *

12 B.(1) Any person who has had his driver's license suspended, revoked, or
13 canceled under any of the following conditions shall, upon proof to the Department
14 of Public Safety and Corrections that his motor vehicle has been equipped with a
15 functioning ignition interlock device as provided in this Section, be issued a
16 restricted driver's license:

17 (a)

18 * * *

19 (ii) However, if the offender had a blood alcohol concentration of ~~0.20~~ 0.15
20 percent or more by weight based on grams of alcohol per one hundred cubic
21 centimeters of blood the following restrictions shall apply:

22 (aa) Upon first offense, if the offender had a blood alcohol concentration of
23 ~~0.20~~ 0.15 percent or greater, he shall be issued a restricted driver's license during the
24 entire period of the two-year driver's license suspension imposed under the
25 provisions of ~~R.S. 14:98(K)(1)~~ R.S. 14:98.1(A)(3)(b) and shall be required to have
26 a functioning ignition interlock device installed on his vehicle during the first
27 twelve-month period of the suspension as provided in R.S. 14:98.1(A)(3)(c).

28 (bb) Upon second offense, if the offender has a blood alcohol concentration
29 of ~~0.20~~ 0.15 percent or greater, he shall be eligible for a restricted driver's license for
30 the period of suspension as imposed under the provisions of ~~R.S. 14:98(K)(2)(b)~~

1 R.S. 14:98.2(A)(3)(b). The offender may be issued a restricted license during the
2 entire four years on his suspension and shall be required to have a functioning
3 ignition interlock device installed on his vehicle during the first three years of the
4 four-year suspension as provided in R.S. 14:98.2 (A)(3)(c).

5 * * *

6 §414. Suspension, revocation, renewal, and cancellation of licenses; judicial review

7 A.(1)

8 * * *

9 (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this
10 Paragraph, upon first or second conviction, or a plea of guilty or nolo contendere and
11 sentence thereupon or forfeiture of bail of any person charged with the offense of
12 driving while intoxicated when the offender had a blood alcohol concentration of
13 ~~0.20~~ 0.15 percent or more by weight based on grams of alcohol per one hundred
14 cubic centimeters of blood, the following restrictions on suspension and issuance of
15 a restricted driver's license shall apply:

16 (i) Upon first conviction, if the offender had a blood alcohol concentration
17 of ~~0.20~~ 0.15 percent or greater, his driver's license shall be suspended for two years
18 and he shall be issued a restricted driver's license for the entire period of the
19 suspension after he has provided proof to the department that his motor vehicle is
20 equipped with a functioning ignition interlock device. A functioning ignition
21 interlock device shall remain installed on his vehicle during the first twelve-month
22 period of the suspension of his driver's license.

23 (ii) Upon second conviction, if the offender has a blood alcohol
24 concentration of ~~0.20~~ 0.15 percent or greater, his driver's license shall be suspended
25 for four years. The offender shall be eligible for a restricted license after a period of
26 forty-five days of suspension for the remainder of the four-year period of suspension
27 after he has provided proof to the department that his motor vehicle is equipped with
28 a functioning ignition interlock device. A functioning ignition interlock device shall

1 remain installed on his vehicle during the first three-year period of the four-year
2 period of the suspension of his driver's license.

3 * * *

4 §667. Seizure of license; circumstances; temporary license

5 * * *

6 B. If such written request is not made by the end of the thirty-day period, the
7 person's license shall be suspended as follows:

8 (1)

9 * * *

10 (b) ~~On or after September 30, 2003,~~ If the person submitted to the test and
11 the test results show a blood alcohol level of 0.08 percent or above by weight, his
12 driving privileges shall be suspended for ~~ninety~~ one hundred eighty days from the
13 date of suspension on first offense violation, ~~without eligibility for a hardship license~~
14 ~~for the first thirty days,~~ and for three hundred sixty-five days from the date of
15 suspension, ~~without eligibility for a hardship license,~~ on second and subsequent
16 violations occurring within five years of the first offense. If the person was under
17 the age of twenty-one years on the date of the test and the test results show a blood
18 alcohol level of 0.02 percent or above by weight, his driving privileges shall be
19 suspended for one hundred eighty days from the date of suspension.

20 (c) If the person submitted to the test and the test results show a blood
21 alcohol level of ~~0.20~~ 0.15 percent or above by weight, his driving privileges shall
22 be suspended for two years from the date of suspension on first offense violation and
23 for four years from the date of suspension for second offense violation.

24 * * *

25 (3)(a) However, any licensee who has had his license suspended for a first
26 or second offense of operating a motor vehicle while under the influence of alcoholic
27 beverages under the provisions of this Subsection and who either refused to submit
28 to the test or who submitted to the test and the test showed a blood alcohol level of
29 less than ~~0.20~~ 0.15 percent shall, upon proof to the Department of Public Safety and

addition to any sentence of imprisonment imposed pursuant to present law, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

Proposed law adds any penalties imposed under present law, upon conviction of a first offense violation of R.S. 14:98, if the offender had a BAC of 0.15% or more by weight based on grams of alcohol per 100 cubic centimeters of blood, the driver's license of the offender to be suspended for two years.

Present law in addition to any penalties imposed under present law, upon conviction of a first offense, if the offender had a BAC of 0.20% or more by weight based on grams of alcohol per 100 cubic centimeters of blood, the driver's license of the offender will be suspended for two years.

Proposed law changes the BAC in present law from 0.20% to 0.15% BAC.

Present law specifies that if the offender had a BAC of 0.15% or more but less than 0.20% by weight based on grams of alcohol per 100 cubic centimeters of blood, at least ninety-six hours of the sentence imposed pursuant to present law must be served without the benefit of parole, probation, or suspension of sentence.

Proposed law requires any penalties imposed under proposed law, upon conviction of a second offense violation of R.S. 14:98, if the offender had a BAC of 0.15% or more by weight based on grams of alcohol per 100 cubic centimeters of blood, the driver's license of the offender must be suspended for four years.

Present law specifies that any penalties imposed under this Section, upon conviction of a second offense violation of R.S. 14:98, if the offender had a BAC of 0.20% or more by weight based on grams of alcohol per 100 cubic centimeters of blood, the driver's license of the offender to be suspended for four years.

Proposed law changes the BAC in present law from 0.20% to 0.15%.

Present law requires that any person who has had his driver's license suspended, revoked, or canceled under any of the following conditions upon proof to the Dept. of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device as provided in present law, be issued a restricted driver's license.

Present law specifies that if the offender had a BAC of 0.20% or more by weight based on grams of alcohol per 100 cubic centimeters of blood the following restrictions shall apply:

(1) Upon first offense, if the offender had a BAC of 0.20% or greater, he will be issued a restricted driver's license during the entire period of the two-year driver's license suspension imposed under the provisions of present law and will be required to have a functioning ignition interlock device installed on his vehicle during the first twelve-month period of the suspension

(2) Upon second offense, if the offender has a BAC of 0.20% or greater, he will be eligible for a restricted driver's license for the period of suspension as imposed under the provisions of present law. Specifies that he offender may be issued a restricted license during the entire four years on his suspension and will be required to have a functioning ignition interlock device installed on his vehicle during the first three years of the four-year suspension.

Proposed law modifies the BAC in present law from 0.20% to 0.15% and replaces the present law provisions.

Present law specifies upon first or second conviction, or a plea of guilty or nolo contendere and sentence thereupon or forfeiture of bail of any person charged with the offense of driving while intoxicated when the offender had a BAC of 0.20% or more by weight based on grams of alcohol per 100 cubic centimeters of blood, the following restrictions on suspension and issuance of a restricted driver's license apply:

(1) Upon first conviction, if the offender had a BAC of 0.20% or greater, his driver's license will be suspended for two years and he must be issued a restricted driver's license for the entire period of the suspension after he has provided proof to the department that his motor vehicle is equipped with a functioning ignition interlock device. Also requires a functioning ignition interlock device remain installed on his vehicle during the first 12 month period of the suspension of his driver's license.

(2) Upon second conviction, if the offender has a BAC of 0.20% or greater, his driver's license will be suspended for four years. Specifies that the offender must be eligible for a restricted license after a period of 45 days of suspension for the remainder of the 4 year period of suspension after he has provided proof to the department that his motor vehicle is equipped with a functioning ignition interlock device. Also requires a functioning ignition interlock device will remain installed on his vehicle during the first 3 year period of the 4 year period of the suspension of his driver's license.

Present law specifies that on or after Sept. 30, 2003, if the person submitted to the test and the test results show a blood alcohol level of 0.08% or above by weight, his driving privileges must be suspended for 90 days from the date of suspension on first offense violation, without eligibility for a hardship license for the first 30 days, and for 365 days from the date of suspension, without eligibility for a hardship license, on second and subsequent violations occurring within 5 years of the first offense. Specifies that if the person was under the age of 21 years on the date of the test and the test results show a BAC of .20% or above by weight, his driving privileges will be suspended for 180 days from the date of suspension.

Proposed law removes outdated language and increases 90 day suspension of driving privileges outdated languages to 180 days. Removes without eligibility for a hardship license from present law.

(Amends R.S. 14:98.1(A)(2) and (3)(b) and 98.2(A)(2) and (3)(b) and R.S. 32:378.2(B)(1)(a)(ii), (aa), (bb), 414(A)(1)(c), (i), and (ii), 667(B)(1)(b) and (c) and (3), Adds R.S. 14:98(b) and 98.2(b))