

2023 Regular Session

HOUSE BILL NO. 484

BY REPRESENTATIVES EDMONDS, BRYANT, KNOX, AND LAFLEUR

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

MTR VEHICLE/DRIVER LIC: Provides relative to suspension of a driver's license and eligibility for a hardship license for certain offenses of operating a vehicle while intoxicated

1 AN ACT

2 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.
3 32:378.2(B)(1)(a)(ii), 414(A)(1)(c), and 667(B)(1)(b) and (c) and (3) and (H)(1) and
4 to enact R.S. 32:414(A)(1)(d), relative to operating a vehicle while intoxicated; to
5 provide relative to suspension of a driver's license for a first and second offense of
6 operating a vehicle while intoxicated; to provide relative to eligibility for a hardship
7 license; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

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

11 §98.1. Operating while intoxicated; first offense; penalties

12 A.

13 * * *

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

1 Subsection, provided that the total period of imprisonment upon conviction of the
2 offense, including imprisonment for default in payment of a fine or costs, shall not
3 exceed six months.

4 (b) In addition to any penalties imposed under this Section and except as
5 provided in R.S. 32:414(A)(1)(d) or 667(H)(1)(b), upon conviction of a first offense,
6 if the offender had a blood alcohol concentration of 0.15 percent or more by weight
7 based on grams of alcohol per one hundred cubic centimeters of blood, the driver's
8 license of the offender shall be suspended for two years.

9 (3)

10 * * *

11 (b) In addition to any penalties imposed under this Section and except as
12 provided in R.S. 32:414(A)(1)(d) or 667(H)(1)(b), upon conviction of a first offense,
13 if the offender had a blood alcohol concentration of ~~0.20~~ 0.15 percent or more by
14 weight based on grams of alcohol per one hundred cubic centimeters of blood, the
15 driver's license of the offender shall be suspended for two years.

16 * * *

17 §98.2. Operating while intoxicated; second offense; penalties

18 A.

19 * * *

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

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

1 (3)

2 * * *

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

8 * * *

9 Section 2. R.S. 32:378.2(B)(1)(a)(ii), 414(A)(1)(c), and 667(B)(1)(b) and (c) and (3)
10 and (H)(1) are hereby amended and reenacted and R.S. 32:414(A)(1)(d) is hereby enacted
11 to read as follows:

12 §378.2. Ignition interlock devices; condition of probation for certain DWI
13 offenders; restricted license

14 * * *

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

20 (a)

21 * * *

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

25 (aa) Upon first offense, if the offender had a blood alcohol concentration of
26 ~~0.20~~ 0.15 percent or greater, he shall be issued a restricted driver's license during the
27 entire period of the two-year driver's license suspension imposed under the
28 provisions of ~~R.S. 14:98(K)(1)~~ R.S. 14:98.1(A)(3)(b) and (c) and shall be required

1 to have a functioning ignition interlock device installed on his vehicle during the first
2 twelve-month period of the suspension.

3 (bb) Upon second offense, if the offender has a blood alcohol concentration
4 of ~~0.20~~ 0.15 percent or greater, he shall be eligible for a restricted driver's license for
5 the period of suspension as imposed under the provisions of ~~R.S. 14:98(K)(2)(b)~~ R.S.
6 14:98.2(A)(3)(b) and (c). The offender may be issued a restricted license during the
7 entire four years on his suspension and shall be required to have a functioning
8 ignition interlock device installed on his vehicle during the first three years of the
9 four-year suspension.

10 * * *

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

12 A.(1)

13 * * *

14 (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this
15 Paragraph, upon first or second conviction, or a plea of guilty or nolo contendere and
16 sentence thereupon or forfeiture of bail of any person charged with the offense of
17 driving while intoxicated when the offender had a blood alcohol concentration of
18 ~~0.20~~ 0.15 percent or more by weight based on grams of alcohol per one hundred
19 cubic centimeters of blood, the following restrictions on suspension and issuance of
20 a restricted driver's license shall apply:

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

28 (ii) Upon second conviction, if the offender has a blood alcohol
29 concentration of ~~0.20~~ 0.15 percent or greater, his driver's license shall be suspended

1 for four years. The offender shall be eligible for a restricted license ~~after a period of~~
2 ~~forty-five days of suspension for the remainder of~~ for the four-year period of
3 suspension after he has provided proof to the department that his motor vehicle is
4 equipped with a functioning ignition interlock device. A functioning ignition
5 interlock device shall remain installed on his vehicle during the first three-year
6 period of the four-year period of the suspension of his driver's license.

7 (d) When any person's driver's license has been suspended in connection to
8 a first offense violation of R.S. 14:98, the office of motor vehicles shall suspend the
9 person's driver's license consistent with the blood alcohol concentration reflected in
10 the final case disposition and sentencing minutes. The administrative suspension for
11 any chemical test submission shall be updated to be consistent with the blood alcohol
12 concentration reflected in the final case disposition and sentencing minutes.

13 * * *

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

15 * * *

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

18 (1)

19 * * *

20 (b) ~~On or after September 30, 2003, if~~ If the person submitted to the test and
21 the test results show a blood alcohol level of 0.08 percent or above by weight, his
22 driving privileges shall be suspended for ninety days from the date of suspension on
23 first offense violation, ~~without eligibility for a hardship license for the first thirty~~
24 ~~days, and for three hundred sixty-five days from the date of suspension, without~~
25 ~~eligibility for a hardship license,~~ on second and subsequent violations occurring
26 within five years of the first offense. If the person was under the age of twenty-one
27 years on the date of the test and the test results show a blood alcohol level of 0.02
28 percent or above by weight, his driving privileges shall be suspended for one
29 hundred eighty days from the date of suspension.

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

5 * * *

6 (3)(a) However, any licensee who has had his license suspended for a first
7 or second offense of operating a motor vehicle while under the influence of alcoholic
8 beverages under the provisions of this Subsection and who either refused to submit
9 to the test or who submitted to the test and the test showed a blood alcohol level of
10 less than ~~0.20~~ 0.15 percent shall, upon proof to the Department of Public Safety and
11 Corrections that his motor vehicle has been equipped with a functioning ignition
12 interlock device, be immediately eligible for and shall be granted a restricted license.
13 In the event that the department fails or refuses to issue the restricted driver's license,
14 the district court for the parish in which the licensee resides may issue an order
15 directing the department to issue the restricted license either by ex parte order or
16 after contradictory hearing.

17 (b) If the person submitted to the test as a result of a first violation and the
18 test results show a blood alcohol level of ~~0.20~~ 0.15 percent or above by weight, he
19 shall be eligible for a hardship license during the entire period of the imposed two-
20 year suspension after he has provided proof that his motor vehicle has been equipped
21 with an ignition interlock device. A functioning ignition interlock device shall
22 remain installed on his motor vehicle during the first twelve-month period of his
23 driver's license suspension.

24 (c) If the person submitted to the test as a result of a second violation and the
25 test results show a blood alcohol level of ~~0.20~~ 0.15 percent or above by weight, he
26 shall be eligible for a hardship license during the entire four-year period of the
27 suspension after he has provided proof that his motor vehicle has been equipped with
28 an ignition interlock device. A functioning ignition interlock device shall remain

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

3 * * *

4 H.(1)(a) When any person's driver's license has been seized, suspended, or
5 revoked, and the seizure, suspension, or revocation is connected to a charge or
6 charges of violation of a criminal law, and the charge or charges do not result in a
7 conviction, plea of guilty, or bond forfeiture, the person charged shall have his
8 license immediately reinstated and shall not be required to pay any reinstatement fee
9 if at the time for reinstatement of driver's license, it can be shown that the criminal
10 charges have been dismissed or that there has been a permanent refusal to charge a
11 crime by the appropriate prosecutor or there has been an acquittal. If, however, at
12 the time for reinstatement, the licensee has pending against him criminal charges
13 arising from the arrest which led to his suspension or revocation of driver's license,
14 the reinstatement fee shall be collected. Upon subsequent proof of final dismissal
15 or acquittal, other than under Article 893 or 894 of the Code of Criminal Procedure,
16 the licensee shall be entitled to a reimbursement of the reinstatement fee previously
17 paid. In no event shall exemption from this reinstatement fee or reimbursement of
18 a reinstatement fee affect the validity of the underlying suspension or revocation.

19 (b) When any person's driver's license has been suspended in connection to
20 a first offense violation of R.S. 14:98, the office of motor vehicles shall suspend the
21 person's driver's license consistent with the blood alcohol concentration reflected in
22 the final case disposition and sentencing minutes. The administrative suspension for
23 any chemical test submission shall be updated to be consistent with the blood alcohol
24 concentration reflected in the final case disposition and sentencing minutes.

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 484 Reengrossed

2023 Regular Session

Edmonds

Abstract: Provides relative to suspension of a driver's license and eligibility for a hardship license for the offense of operating a vehicle while intoxicated.

Present law (R.S. 14:98.1) relative to a first offense of operating a vehicle while intoxicated, provides that 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 48 hours of the sentence imposed shall be served without the benefit of parole, probation, or suspension of sentence, and the sentence is to be served in addition to any sentence of imprisonment imposed pursuant to present law, provided that the total period of imprisonment upon conviction of the offense, including default in payment of a fine or costs, shall not exceed six months.

Proposed law retains present law and provides that in addition to any other penalty imposed under present law, upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

Present law provides that upon conviction of a first offense and if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Present law (R.S. 14:98.2) relative to a second offense of operating a vehicle while intoxicated, provides that 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 96 hours of the sentence imposed pursuant to present law shall be served without the benefit of parole, probation, or suspension of sentence.

Proposed law provides that in addition to any penalties imposed pursuant to present law, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for four years.

Present law provides that upon conviction of a second offense and if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the drivers license of the offender shall be suspended for four years.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Present law (R.S. 32:378.2) grants eligibility for a restricted driver's license to certain persons who had their license suspended for a DWI violation upon proof that their vehicle is equipped with a functioning ignition interlock device.

Present law further provides that if the offender had a blood alcohol concentration of 0.20 percent or greater, he shall be issued a restricted driver's license under certain conditions.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Present law (R.S. 32:414) provides relative to restrictions on the suspension or issuance of a restricted license for first or second convictions of a DWI when the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood.

Proposed law changes the blood alcohol concentration from 0.20 percent to 0.15 percent.

Proposed law further provides that upon a second conviction, the offender shall be eligible for a restricted license for the four-year period of suspension after he has provided proof to the department that his motor vehicle is equipped with a functioning ignition interlock device.

Proposed law provides that when any person's driver's license is suspended in connection to a first offense violation of present law (R.S. 14:98), the office of motor vehicle's is required to suspend the person's driver's license consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes. The administrative suspension for any chemical test suspension shall be updated to be consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes.

Present law (R.S. 32:667) provides that on or after Sept. 30, 2003, if the person submitted to a breath alcohol concentration test and the test results show a blood alcohol level of 0.08 percent or above by weight, his driving privileges shall be suspended for 90 days from the date of suspension on a 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 five years of the first offense.

Proposed law removes the enacting date from present law and removes the restriction for eligibility of a hardship license.

Proposed law further changes the blood alcohol concentration from 0.20 percent to 0.15 percent relative to hardship license requirements.

Proposed law provides that when any person's driver's license is suspended in connection to a first offense violation of present law (R.S. 14:98), the office of motor vehicle's is required to suspend the person's driver's license consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes. The administrative suspension for any chemical test suspension shall be updated to be consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes.

(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), 414(A)(1)(c), and 667(B)(1)(b) and (c) and (3) and (H)(1); Adds R.S. 32:414(A)(1)(d))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Relative to a first offense of operating a vehicle while intoxicated, require the office of motor vehicles to suspend the person's driver's license consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes.