

#### HOUSE BILL NO. 776

# BY REPRESENTATIVES BRYANT, BACALA, BOYER, COX, HORTON, KNOX, LAFLEUR, MOORE, VENTRELLA, VILLIO, AND WALTERS

1	AN ACT
2	To amend and reenact R.S. $14:32.1(A)(1)$ and (3) through (5), $32.8(A)(2)(a)$ and (c) through
3	(e), 39.1(A)(1) and (3), 39.2(A)(1) and (3), 98(A)(1)(introductory paragraph), (a),
4	and (c) and (2), (C)(1)(e) and (3), (E), and (F)(1) and (2), 98.1(Section heading),
5	98.2(Section heading), 98.3(Section heading), 98.4(Section heading), 98.5(B)(4),
6	98.6(A), and 98.7(A) and R.S. 32:661(A)(1) and (2), 661.1(A), 661.2(A), 664(A),
7	666(A)(1)(a)(i) and $(2)(c)$ and $(B)$ , $667.1(C)(2)$ and $(3)$ , $668(A)(1)$ ,
8	681(A)(introductory paragraph) and (B), (C), and (D), to enact R.S. 14:98(A)(3) and
9	R.S. 32:661(E) and 681(H), and to repeal R.S. 14:32.1(A)(6) and (7), 32.8(A)(2)(f)
10	and (g), 39.1(A)(4) and (5), 39.2(A)(4) and (5), and 98(A)(1)(d) and (e), relative to
11	operating a vehicle while intoxicated; to provide relative to changes in terminology;
12	to provide for a definition; to provide relative to elements of certain offenses
13	involving a motor vehicle and the operator of a motor vehicle; and to provide for
14	related matters.
15	Be it enacted by the Legislature of Louisiana:
16	Section 1. R.S. 14:32.1(A)(1) and (3) through (5), 32.8(A)(2)(a) and (c) through (e),
17	39.1(A)(1) and (3), 39.2(A)(1) and (3), 98(A)(1)(introductory paragraph), (a), and (c) and
18	(2), (C)(1)(e) and (3), (E), and (F)(1) and (2), 98.1(Section heading), 98.2(Section heading),
19	98.3(Section heading), 98.4(Section heading), 98.5(B)(4), 98.6(A), and 98.7(A) are hereby
20	amended and reenacted and R.S. 14:98(A)(3) is hereby enacted to read as follows:
21	§32.1. Vehicular homicide
22	A. Vehicular homicide is the killing of a human being caused proximately
23	or caused directly by an offender engaged in the operation of, or in actual physical
24	control of, any motor vehicle, aircraft, watercraft, or other means of conveyance,

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1	whether or not the offender had the intent to cause death or great bodily harm,
2	whenever any of the following conditions exists and such condition was a
3	contributing factor to the killing:
4	(1) The operator is <del>under the influence of</del> <u>impaired by</u> alcoholic beverages
5	as determined by chemical tests administered under the provisions of R.S. 32:662.
6	* * *
7	(3)(a) The operator is under the influence of any controlled dangerous
8	substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964 impaired
9	by any other drug, combination of drugs, or combination of alcohol and drugs.
10	(b) As used in this Section, the term "drug" means any substance or
11	combination of substances that, when taken into the human body, can impair the
12	ability of the person to operate a vehicle safely.
13	(4) The operator is <del>under the influence of</del> <u>impaired by</u> alcoholic beverages.
14	(5)(a) The operator is under the influence of a combination of alcohol and
15	one or more drugs which are not controlled dangerous substances and which are
16	legally obtainable with or without a prescription.
17	(b) It shall be an affirmative defense to any charge under this Paragraph
18	pursuant to this Section that the label on the container of the prescription drug or the
19	manufacturer's package of the drug does not contain a warning against combining
20	the medication with alcohol.
21	(6) The operator is under the influence of one or more drugs which are not
22	controlled dangerous substances and which are legally obtainable with or without a
23	prescription and the influence is caused by the operator knowingly consuming
24	quantities of the drug or drugs which substantially exceed the dosage prescribed by
25	the physician or the dosage recommended by the manufacturer of the drug.
26	(7) The operator's blood has any detectable amount of any controlled
27	dangerous substance listed in Schedule I, II, III, or IV as set forth in R.S. 40:964, or
28	a metabolite of such controlled dangerous substance, that has not been medically
29	ordered or prescribed for the individual.

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1	§32.8. Third degree feticide
2	A. Third degree feticide is:
3	* * *
4	(2) The killing of an unborn child caused proximately or caused directly by
5	an offender engaged in the operation of, or in actual physical control of, any motor
6	vehicle, aircraft, vessel, or other means of conveyance whether or not the offender
7	had the intent to cause death or great bodily harm whenever any of the following
8	conditions exist and such condition was a contributing factor to the killing:
9	(a) The offender is <del>under the influence of</del> <u>impaired by</u> alcoholic beverages
10	as determined by chemical tests administered under the provisions of R.S. 32:662.
11	* * *
12	(c)(i) The offender is under the influence of any controlled dangerous
13	substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964 impaired
14	by any other drug, combination of drugs, or combination of alcohol and drugs.
15	(ii) As used in this Section, the term "drug" means any substance or
16	combination of substances that, when taken into the human body, can impair the
17	ability of the person to operate a vehicle safely.
18	(d) The offender is <del>under the influence of</del> <u>impaired by</u> alcoholic beverages.
19	(e)(i) The offender is under the influence of a combination of alcohol and
20	one or more drugs which are not controlled dangerous substances and which are
21	legally obtainable with or without a prescription.
22	(ii) It shall be an affirmative defense to any charge under this Subparagraph
23	that the label on the container of the prescription drug or the manufacturer's package
24	of the drug does not contain a warning against combining the medication with
25	<del>alcohol.</del>
26	(f) The offender is under the influence of one or more drugs which are not
27	controlled dangerous substances and which are legally obtainable with or without a
28	prescription and the influence is caused by the offender's knowingly consuming
29	quantities of the drug or drugs which substantially exceed the dosage prescribed by
30	the physician or the dosage recommended by the manufacturer of the drug.

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1	(g) The operator's blood has any detectable amount of any controlled
2	dangerous substance listed in Schedule I, II, III, or IV as set forth in R.S. 40:964, or
3	a metabolite of such controlled dangerous substance, that has not been medically
4	ordered or prescribed for the individual.
5	* * *
6	§39.1. Vehicular negligent injuring
7	A. Vehicular negligent injuring is the inflicting of any injury upon the person
8	of a human being when caused proximately or caused directly by an offender
9	engaged in the operation of, or in actual physical control of, any motor vehicle,
10	aircraft, watercraft, or other means of conveyance whenever any of the following
11	conditions exists:
12	(1) The offender is <del>under the influence of</del> <u>impaired by</u> alcoholic beverages.
13	* * *
14	(3)(a) The offender is under the influence of any controlled dangerous
15	substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964 impaired
16	by any other drug, combination of drugs, or combination of alcohol and drugs.
17	(b) As used in this Section, the term "drug" means any substance or
18	combination of substances that, when taken into the human body, can impair the
19	ability of the person to operate a vehicle safely.
20	(4)(a) The operator is under the influence of a combination of alcohol and
21	one or more drugs which are not controlled dangerous substances and which are
22	legally obtainable with or without a prescription.
23	(b) It shall be an affirmative defense to any charge under this Paragraph
24	pursuant to this Section that the label on the container of the prescription drug or the
25	manufacturer's package of the drug does not contain a warning against combining
26	the medication with alcohol.
27	(5) The operator is under the influence of one or more drugs which are not
28	controlled dangerous substances and which are legally obtainable with or without a
29	prescription and the influence is caused by the operator knowingly consuming

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1	quantities of the drug or drugs which substantially exceed the dosage prescribed by
2	the physician or the dosage recommended by the manufacturer of the drug.
3	* * *
4	§39.2. First degree vehicular negligent injuring
5	A. First degree vehicular negligent injuring is the inflicting of serious bodily
6	injury upon the person of a human being when caused proximately or caused directly
7	by an offender engaged in the operation of, or in actual physical control of, any
8	motor vehicle, aircraft, watercraft, or other means of conveyance whenever any of
9	the following conditions exists:
10	(1) The offender is under the influence of impaired by alcoholic beverages.
11	* * *
12	(3)(a) The offender is under the influence of any controlled dangerous
13	substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964, or any
14	abused substance impaired by any other drug, combination of drugs, or combination
15	of alcohol and drugs.
16	(b) As used in this Section, the term "drug" means any substance or
17	combination of substances that, when taken into the human body, can impair the
18	ability of the person to operate a vehicle safely.
19	(4)(a) The operator is under the influence of a combination of alcohol and
20	one or more drugs which are not controlled dangerous substances and which are
21	legally obtainable with or without a prescription.
22	(b) It shall be an affirmative defense to any charge under this Paragraph
23	pursuant to this Section that the label on the container of the prescription drug or the
24	manufacturer's package of the drug does not contain a warning against combining
25	the medication with alcohol.
26	(5) The operator is under the influence of one or more drugs which are not
27	controlled dangerous substances and which are legally obtainable with or without a
28	prescription and the influence is caused by the operator knowingly consuming

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1	quantities of the drug or drugs which substantially exceed the dosage prescribed by
2	the physician or the dosage recommended by the manufacturer of the drug.
3	* * *
4	§98. Operating a vehicle while intoxicated impaired
5	A.(1) The crime of operating a vehicle while intoxicated impaired is the
6	operating of any motor vehicle, aircraft, watercraft, vessel, or other means of
7	conveyance when any of the following conditions exist:
8	(a) The operator is <del>under the influence of <u>impaired by</u> alcoholic beverages.</del>
9	* * *
10	(c) The operator is under the influence of any controlled dangerous substance
11	listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964 impaired by any other
12	drug, combination of drugs, or combination of alcohol and drugs.
13	(d)(i) The operator is under the influence of a combination of alcohol and
14	one or more drugs that are not controlled dangerous substances and that are legally
15	obtainable with or without a prescription.
16	(ii) It shall be an affirmative defense to any charge under this Subparagraph
17	that the label on the container of the prescription drug or the manufacturer's package
18	of the drug does not contain a warning against combining the medication with
19	alcohol.
20	(e)(i) The operator is under the influence of one or more drugs that are not
21	controlled dangerous substances and that are legally obtainable with or without a
22	prescription.
23	(ii) It shall be an affirmative defense to any charge under this Subparagraph
24	that the operator did not knowingly consume quantities of the drug or drugs that
25	substantially exceed the dosage prescribed by the physician or the dosage
26	recommended by the manufacturer of the drug.
27	(2) A valid driver's license shall not be an element of the offense, and the
28	lack thereof shall not be a defense to a prosecution for operating a vehicle while
29	intoxicated impaired.

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1	(3) As used in this Section, the term "drug" means any substance or
2	combination of substances that, when taken into the human body, can impair the
3	ability of the person to operate a vehicle safely.
4	* * *
5	C.(1) For purposes of determining whether a defendant has a prior
6	conviction for a violation of this Section, a conviction under any of the following
7	shall constitute a prior conviction:
8	* * *
9	(e) A law of any state or an ordinance of a municipality, town, or similar
10	political subdivision of another state that prohibits the operation of any motor
11	vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated,
12	while impaired, or while under the influence of alcohol, drugs, or any controlled
13	dangerous substance, or as otherwise provided by R.S. 13:1894.1.
14	* * *
15	(3) For purposes of this Section, a prior conviction shall not include a
16	conviction for an offense under this Section, a conviction for an offense under R.S.
17	14:39.1, or a conviction under the laws of any state or an ordinance of a
18	municipality, town, or similar political subdivision of another state which prohibits
19	the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of
20	conveyance while intoxicated, while impaired, or while under the influence of
21	alcohol, drugs, or any controlled dangerous substance, or as otherwise provided by
22	R.S. 13:1894.1, if committed more than ten years prior to the commission of the
23	crime for which the defendant is being tried, and such conviction shall not be
24	considered in the assessment of penalties in this Section. However, periods of time
25	during which the offender was awaiting trial, under an order of attachment for failure
26	to appear, or on probation or parole for an offense described in this Paragraph, or
27	periods of time during which an offender was incarcerated in a penal institution in
28	this or any other state for any offense, including an offense described in Paragraph
29	(1) of this Subsection, shall be excluded in computing the ten-year period.
30	* * *

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1	E. The legislature hereby finds and declares that conviction of a third or
2	subsequent offense of operating while intoxicated impaired is presumptive evidence
3	of the existence of a substance abuse disorder that poses a serious threat to the health
4	and safety of the public. Further, the legislature finds that there are successful
5	treatment methods available for treatment of addictive disorders.
6	F.(1) On a third or subsequent conviction of operating while intoxicated
7	impaired pursuant to this Section, in addition to any other sentence, the court shall
8	order, upon motion of the prosecuting district attorney, that the vehicle being
9	operated by the offender at the time of the offense be seized and impounded, and be
10	sold at auction in the same manner and under the same conditions as executions of
11	writs of seizure and sale as provided in Book V, Title II, Chapter 4 of the Code of
12	Civil Procedure.
13	(2) The vehicle shall be exempt from sale if it was stolen, or if the driver of
14	the vehicle at the time of the violation was not the owner and the owner did not know
15	that the driver was operating the vehicle while intoxicated impaired. If this
16	exemption is applicable, the vehicle shall not be released from impoundment until
17	such time as towing and storage fees have been paid. In addition, the vehicle shall
18	be exempt from sale if all towing and storage fees are paid by a valid lienholder.
19	* * *
20	§98.1. Operating while intoxicated impaired; first offense; penalties
21	* * *
22	§98.2. Operating while intoxicated impaired; second offense; penalties
23	* * *
24	§98.3. Operating while intoxicated impaired; third offense; penalties
25	* * *
26	§98.4. Operating while intoxicated impaired; fourth offense; penalties
27	* * *
28	§98.5. Special provisions and definitions
29	* * *

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1	В.
2	* * *
3	(4) An offender who has been convicted of any second violation of any state
4	or local law or ordinance prohibiting operating a vehicle while intoxicated impaired,
5	committed within five years of the commission of any prior operating while
6	intoxicated impaired violation, shall not be eligible for home incarceration until the
7	offender has first served a minimum of forty-eight consecutive hours of
8	imprisonment.
9	* * *
10	§98.6. Underage operating while intoxicated impaired
11	A. The crime of underage operating a vehicle while intoxicated impaired is
12	the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of
13	conveyance when the operator's blood alcohol concentration is 0.02 percent or more
14	by weight based on grams of alcohol per one hundred cubic centimeters of blood, if
15	the operator is under the age of twenty-one.
16	* * *
17	§98.7. Unlawful refusal to submit to chemical tests; arrests for driving while
18	intoxicated impaired
19	A. No person under arrest for a violation of R.S. 14:98, 98.1 98.6, or any
20	other law or ordinance that prohibits operating a vehicle while intoxicated impaired,
21	may refuse to submit to a chemical test when requested to do so by a law
22	enforcement officer if he has refused to submit to such test on two previous and
23	separate occasions of any such violation.
24	* * *
25	Section 2. R.S. 32:661(A)(1) and (2), 661.1(A), 661.2(A), 664(A), 666(A)(1)(a)(i)
26	and (2)(c) and (B), 667.1(C)(2) and (3), 668(A)(1), 681(A)(introductory paragraph) and (B),
27	(C), and (D) are hereby amended and reenacted and R.S. 32:661(E) and 681(H) are hereby
28	enacted to read as follows:

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§661. Operating a vehicle under the influence of alcoholic beverages or illegal substance or controlled dangerous substances; implied consent to chemical tests; administering of test and presumptions

4 A.(1) Any person, regardless of age, who operates a motor vehicle upon the 5 public highways of this state shall be deemed to have given consent, subject to the 6 provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or 7 other bodily substance for the purpose of determining the alcoholic content of his 8 blood, and the presence of any abused substance or controlled dangerous substance 9 as set forth in R.S. 40:964 drug in his blood if arrested for any offense arising out of 10 acts alleged to have been committed while the person was driving or in actual 11 physical control of a motor vehicle while believed to be under the influence of 12 alcoholic beverages, or any abused substance or controlled dangerous substance as 13 set forth in R.S. 40:964 any drug, combination of drugs, or combination of alcohol 14 and drugs.

15 (2)(a) The test or tests shall be administered at the direction of a law 16 enforcement officer having reasonable grounds to believe the person, regardless of 17 age, to have been driving or in actual physical control of a motor vehicle upon the 18 public highways of this state while under the influence of either alcoholic beverages, 19 or any abused substance or controlled dangerous substance as set forth in R.S. 20 40:964 any drug, combination of drugs, or combination of alcohol and drugs. The 21 law enforcement agency by which such officer is employed shall designate in writing 22 and under what conditions which of the aforesaid tests shall be administered.

23 (b) In the case of all traffic fatalities, the coroner, or his designee, shall 24 perform or cause to be performed a toxicology screen on the victim or victims of all 25 traffic fatalities for determining evidence of any alcoholic content of the blood and 26 the presence of any abused substance or controlled dangerous substance as set forth 27 in R.S. 40:964 drug, or combination of drugs, which shall include the extracting of 28 all bodily substance samples necessary for such toxicology screen. The coroner, or 29 his designee, shall be responsible for ensuring the body is not removed from his custody until such time as the bodily substance samples are extracted. The coroner's 30

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1 report shall be made available to the investigating law enforcement agency and may 2 be admissible in any court of competent jurisdiction as evidence of the alcoholic 3 content of the blood and the presence of any abused substance or controlled 4 dangerous substance as set forth in R.S. 40:964 drug, or combination of drugs, at the 5 time of the fatality. The coroner, or his designee, shall determine, by the most 6 current and accepted scientific method available, whether the presence of alcoholic 7 content in the blood of the deceased is the result of pre-death ingestion of alcoholic 8 beverages or the postmortem synthesis of ethanol. Nothing herein shall be construed 9 to limit the authority of the investigating law enforcement agency from conducting 10 an investigation of the accident scene concurrently with the coroner or his designee. 11 \* 12 E. As used in this Chapter, the term "drug" means any substance or 13 combination of substances that, when taken into the human body, may impair the 14 ability of the person to operate a vehicle safely. 15 §661.1. Operating a watercraft under the influence of alcoholic beverages or 16 controlled dangerous substances; implied consent to chemical tests; 17 administering of test and presumptions 18 A.(1) Any person, regardless of age, who operates a motor powered 19 watercraft upon the public navigable waterways of this state shall be deemed to have 20 given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of 21 his blood, breath, urine, or other bodily substance for the purpose of determining the 22 alcoholic content of his blood and the presence of any abused substance or controlled 23 dangerous substance as set forth in R.S. 40:964 drug in his blood if arrested for any 24 offense arising out of acts alleged to have been committed while the person was 25 driving or in actual physical control of a motor powered watercraft, while believed 26 to be under the influence of alcoholic beverages, or any abused substance or 27 controlled dangerous substance as set forth in R.S. 40:964 any drug, combination of 28 drugs, or combination of alcohol and drugs. 29 (2) The test or tests shall be administered at the direction of a law

enforcement officer having reasonable grounds to believe the person, regardless of

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1	age, to have been driving or in actual physical control of a motor powered watercraft
2	upon the public navigable waterways of this state, while under the influence of either
3	alcoholic beverages, or any abused substance or controlled dangerous substance as
4	set forth in R.S. 40:964 any drug, combination of drugs, or combination of alcohol
5	and drugs. The law enforcement agency by which such officer is employed shall
6	designate which of the aforesaid tests shall be administered.
7	* * *
8	§661.2. Operation of a locomotive engine under the influence of alcoholic
9	beverages or controlled dangerous substances; implied consent to chemical
10	tests; administering of test and presumptions
11	A.(1) Any person who operates a locomotive engine upon the railroad tracks
12	of this state shall be deemed to have given consent, subject to the provisions of R.S.
13	32:662, to a chemical test or tests of his blood, breath, urine, or other bodily
14	substance for the purpose of determining the alcoholic content of his blood and the
15	presence of any abused or illegal controlled dangerous substance as set forth in R.S.
16	40:964 drug in his blood if he is involved in a collision at a railroad crossing at any
17	roadway of this state alleged to have occurred when he was driving or in actual
18	physical control of the locomotive engine while believed to be under the influence
19	of an alcoholic beverage, or any abused or illegal controlled dangerous substance as
20	set forth in R.S. 40:964 any drug, combination of drugs, or combination of alcohol
21	and drugs.
22	(2) The test or tests shall be administered at the direction of the law
23	enforcement officer having reasonable grounds to believe the person to have been
24	operating or in physical control of the locomotive engine while under the influence
25	of either an alcoholic beverage, or any abused or illegal controlled dangerous
26	substance as set forth in R.S. 40:964 any drug, combination of drugs, or combination
27	of alcohol and drugs. The law enforcement agency by which such officer is
28	employed shall designate which of the aforesaid tests shall be administered.
29	* * *

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#### §664. Persons authorized to administer test

A. When a person submits to a blood test at the request of a law enforcement 3 officer under the provisions of this Part, only a physician, physician assistant, 4 registered nurse, licensed practical nurse, emergency medical technician, chemist, 5 nurse practitioner, or other qualified technician may withdraw blood for the purpose 6 of determining the alcoholic content or presence of any abused or illegal controlled 7 dangerous substances drug, or combination of drugs, therein. No law enforcement 8 officer who is not otherwise qualified as a physician, physician assistant, registered 9 nurse, licensed practical nurse, emergency medical technician, chemist, nurse 10 practitioner, or other qualified technician may withdraw blood for the purpose of 11 determining, or of having determined, the alcoholic content or presence of any 12 abused or illegal controlled dangerous substances drug, or combination of drugs, 13 therein. This limitation shall not apply to the taking of breath specimens. Only 14 procedures approved and promulgated by the Department of Public Safety and 15 Corrections may be used in the analysis of blood, urine, breath, or other bodily 16 substance.

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§666. Refusal to submit to chemical test; submission to chemical tests; exception; effects of

20  $A_{i}(1)(a)(i)$  When a law enforcement officer has probable cause to believe 21 that a person has violated R.S. 14:98, 98.6, or any other law or ordinance that 22 prohibits operating a vehicle while intoxicated, that person may not refuse to submit 23 to a chemical test or tests if he has refused to submit to such test or tests on two 24 previous and separate occasions of any previous such violation or in any case 25 wherein a fatality has occurred or a person has sustained serious bodily injury in a 26 crash involving a motor vehicle, aircraft, watercraft, vessel, or other means of 27 conveyance. Serious bodily injury means bodily injury which involves 28 unconsciousness, protracted and obvious disfigurement, or protracted loss or 29 impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death. The law enforcement officer shall direct that a chemical test 30

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1 or tests be conducted of a person's blood, urine, or other bodily substance, or perform 2 a chemical test of such person's breath, for the purpose of determining the alcoholic 3 content of his blood and the presence of any abused substance or controlled 4 substance as set forth in R.S. 40:964 drug, or combination of drugs, in his blood in 5 such circumstances. The officer may direct a person to submit to a breath test, and 6 if indicated, an additional blood test for the purpose of testing for the presence of 7 alcohol, abused substances, and controlled dangerous substances any drug, or 8 combination of drugs. A refusal of any such test or tests shall result in the suspension 9 of driving privileges as provided by the provisions of this Part. A physician, 10 physician assistant, registered nurse, licensed practical nurse, emergency medical 11 technician, chemist, nurse practitioner, or other qualified technician shall perform a 12 chemical test in accordance with the provisions of R.S. 32:664 when directed to do 13 so by a law enforcement officer. 14

(2) In all cases other than those in Paragraph (1) of this Subsection, a person
under arrest for a violation of R.S. 14:98, 98.1, or other law or ordinance that
prohibits operating a vehicle while intoxicated may refuse to submit to such
chemical test or tests, after being advised of the consequences of such refusal as
provided for in R.S. 32:661(C), subject to the following:

2021 (c) Evidence of

21 (c) Evidence of his refusal shall be admissible in any criminal action or 22 proceeding arising out of acts alleged to have been committed while the person, 23 regardless of age, was driving or in actual physical control of a motor vehicle upon 24 the public highways of this state while under the influence of alcoholic beverages or 25 any abused substance or controlled dangerous substance as set forth in R.S. 40:964 26 drug, or combination of drugs. Additionally, evidence of his refusal shall be 27 admissible in any criminal action or proceeding arising out of acts alleged to have 28 been committed while the person under twenty-one years of age was driving or in 29 actual physical control of a motor vehicle upon the public highways of this state after 30 having consumed alcoholic beverages. However, such evidence shall not be

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admissible in a civil action or proceeding other than to suspend, revoke, or cancel his driving privileges.

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4 B. In each instance that a person submits or refuses to submit to a chemical 5 test, after being advised of the consequences of such refusal or submission as 6 provided for in R.S. 32:661(C), the officer shall submit a report in a form approved 7 by the secretary. The officer shall certify that he had reasonable grounds to believe 8 that the arrested person had been driving or was in actual physical control of a motor 9 vehicle upon the public highways of this state while under the influence of alcoholic 10 beverages, or any abused or illegal controlled dangerous substance as set forth in 11 R.S. 40:964 any drug, combination of drugs, or combination of alcohol and drugs, 12 that he had followed the procedure in informing such person of his rights under R.S. 13 32:661(C), and that such person had submitted to the test or refused to submit to the 14 test upon the request of the officer. In the case of a submission to the test, the officer 15 shall provide complete information regarding the test as may be available at the time 16 the certified report is completed. 17 18 §667.1. Seizure of license upon arrest for vehicular homicide; issuance of temporary 19 license; suspension 20 21 C.(1) 22 23 (2) The court shall conduct a contradictory hearing to determine whether a 24 chemical test has been performed of the blood, urine, or other bodily substance of the 25 person arrested and whether the test indicates the presence of alcohol, an abused 26 substance, a controlled dangerous substance as set forth in R.S. 40:964, or any other 27 substance which causes impairment any drug, or any combination of drugs. The 28 scope of the hearing shall be limited to the issues provided for in this Paragraph. 29 (3) If the court determines that the test provided for in Paragraph (2) of this Subsection indicates the presence of alcohol, an abused substance, a controlled 30

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1	dangerous substance or any other substance which causes impairment any drug, or
2	any combination of drugs, then the court shall suspend the driver's license of any
3	person arrested for a violation of R.S. 14:32.1 (vehicular homicide) for one year,
4	without benefit of a hardship license.
5	* * *
6	§668. Procedure following revocation or denial of license; hearing; court review;
7	review of final order; restricted licenses
8	A. Upon suspending the license or permit to drive or nonresident operating
9	privilege of any person or upon determining that the issuance of a license or permit
10	shall be denied to the person, the Department of Public Safety and Corrections shall
11	immediately notify the person in writing and upon his request shall afford him an
12	opportunity for a hearing based upon the department's records or other evidence
13	admitted at the hearing, and in the same manner and under the same conditions as is
14	provided in R.S. 32:414 for notification and hearings in the case of suspension of
15	licenses, except that no law enforcement officer shall be compelled by such person
16	to appear or testify at such hearing and there shall be a rebuttable presumption that
17	any inconsistencies in evidence submitted by the department and admitted at the
18	hearing shall be strictly construed in favor of the person regarding the revocation,
19	suspension, or denial of license. The scope of such a hearing for the purposes of this
20	Part shall be limited to the following issues:
21	(1) Whether a law enforcement officer had reasonable grounds to believe the
22	person, regardless of age, had been driving or was in actual physical control of a
23	motor vehicle upon the public highways of this state, or had been driving or was in

24actual physical control of a motor-powered watercraft upon the public navigable25waterways of this state, while under the influence of either alcoholic beverages or26any abused substance or controlled dangerous substance as set forth in R.S. 40:96427drug, combination of drugs, or combination of alcohol and drugs.

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1 §681. Postaccident drug testing; accidents involving fatalities, required 2 A. The operator of any motor vehicle or watercraft which is involved in a 3 collision or crash on the public highways, including waterways, shall be deemed to 4 have given consent to, and shall be administered, a chemical test or tests of his blood, 5 urine, or other bodily substances for the purpose of determining the presence of any 6 abused substance or controlled dangerous substance as set forth in R.S. 40:964 or 7 other applicable provision of law drug, combination of drugs, or any other impairing 8 substance, under any of the following circumstances: 9

10 B. The test or tests required pursuant to Subsection A of this Section shall 11 be administered at the direction of a law enforcement officer having reasonable 12 grounds to believe the person to have been operating or in actual physical control of 13 a motor vehicle upon the public highways of this state which is involved in a 14 collision or crash or to have been operating or in physical control of a watercraft on 15 the waterways of this state involved in a collision, crash, or other casualty in which 16 a suspected serious injury or a fatality occurs, in order to determine the presence of 17 any abused substance or controlled dangerous substance as set forth in R.S. 40:964 18 or any other applicable provision of law, drug, combination of drugs, or any other 19 impairing substance. The law enforcement agency by which such officer is 20 employed shall designate in writing under what conditions the test or tests shall be 21 administered.

22 C. In the case of all traffic or boating fatalities, the coroner, or his designee, 23 shall perform or cause to be performed a toxicology screen on the deceased victim 24 or victims for determining evidence of the presence of any abused substance or 25 controlled dangerous substance as set forth in R.S. 40:964 or other applicable 26 provision of law drug, combination of drugs, or any other impairing substance which 27 shall include the extracting of all bodily substance samples necessary for such toxicology screen. The coroner, or his designee, shall be responsible for ensuring the 28 29 body is not removed from his custody until such time as the bodily substance 30 samples are extracted. The coroner's report shall be made available to the

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1	investigating law enforcement agency and may be admissible in any court of
2	competent jurisdiction as evidence of the presence of any abused substance or
3	controlled dangerous substance as set forth in R.S. 40:964 or other applicable
4	provision of law drug, combination of drugs, or any other impairing substance at the
5	time of the fatality. Nothing herein in this Subsection shall be construed to limit the
6	authority of the investigating law enforcement agency from conducting an
7	investigation of the accident scene concurrently with the coroner or his designee.
8	D Any chemical test or tests of a person's blood wrine or other bodily

8D. Any chemical test or tests of a person's blood, urine, or other bodily9substance for the purpose of determining the presence of any abused substance or10controlled dangerous substance as set forth in R.S. 40:964 or other applicable11provision of law drug, combination of drugs, or any other impairing substance shall12be administered in the same manner and subject to the provisions of Part XIV of this13Chapter.

14 \* \* \* \*
15 <u>H. As used in this Section, the term "drug" means any substance or</u>
16 combination of substances that, when taken into the human body, may impair the

- 17 <u>ability of the person to operate a vehicle safely.</u>
- 18 Section 3. R.S. 14:32.1(A)(6) and (7), 32.8(A)(2)(f) and (g), 39.1(A)(4) and (5),

19 39.2(A)(4) and (5), and 98(A)(1)(d) and (e) are hereby repealed in their entirety.

### SPEAKER OF THE HOUSE OF REPRESENTATIVES

#### PRESIDENT OF THE SENATE

### GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_