Regular Session, 2014

HOUSE BILL NO. 511

## BY REPRESENTATIVE GUILLORY

DWI: Provides relative to operating a vehicle while intoxicated

| 1  | AN ACT  |
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| 2  | To amend and reenact R.S. 14:98(F), relative to operating a vehicle while intoxicated; to |
| 3  | provide relative to multiple offenses of operating a vehicle while intoxicated; to        |
| 4  | provide relative to determinations of prior convictions of such offenses; and to          |
| 5  | provide for related matters.  |
| 6  | Be it enacted by the Legislature of Louisiana:  |
| 7  | Section 1. R.S. 14:98(F) is hereby amended and reenacted to read as follows:              |
| 8  | §98. Operating a vehicle while intoxicated  |
| 9  | * * *   |
| 10 | F.(1) For purposes of determining whether a defendant has a prior conviction              |
| 11 | for violation of this Section, a conviction under either R.S. 14:32.1, vehicular          |
| 12 | homicide, R.S. 14:39.1, vehicular negligent injuring, or R.S. 14:39.2, first degree       |
| 13 | vehicular negligent injuring, or a conviction under the laws of any state or an           |
| 14 | ordinance of a municipality, town, or similar political subdivision of another state,     |
| 15 | which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or      |
| 16 | other means of conveyance while intoxicated, while impaired, or while under the           |
| 17 | influence of alcohol, drugs, or any controlled dangerous substance shall constitute       |
| 18 | a prior conviction. This determination shall be made by the court as a matter of law.     |
| 19 | (2) For purposes of this Section, a prior conviction shall not include a                  |
| 20 | conviction for an offense under this Section, under R.S. 14:32.1, R.S. 14:39.1, or        |

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

| 1 | R.S. 14:39.2, or under a comparable statute or ordinance of another jurisdiction, as       |
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| 2 | described in Paragraph (1) of this Subsection, if committed more than ten years prior      |
| 3 | to the commission of the crime for which the defendant is being tried and such             |
| 4 | conviction shall not be considered in the assessment of penalties hereunder.               |
| 5 | However, periods of time during which the offender was awaiting trial, on probation        |
| 6 | or parole for an offense described in Paragraph (1) of this Subsection, under an order     |
| 7 | of attachment for failure to appear, or incarcerated in a penal institution in this or any |
| 8 | other state shall be excluded in computing the ten-year period.                            |
| 9 | * * *  |

## 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)]

## Guillory

HB No. 511

**Abstract:** Provides relative to the calculation of multiple offenses for purposes of second and subsequent convictions of operating a vehicle while intoxicated.

<u>Present law</u> provides for the crime of operating a vehicle while intoxicated and provides for increased penalties for second and subsequent convictions of this offense.

<u>Present law</u> provides that for the purposes of determining whether a defendant has a prior conviction for operating a vehicle while intoxicated, a conviction for vehicular homicide, vehicular negligent injuring, or first degree vehicular negligent injuring, or a conviction under the laws of any state or ordinance which prohibits the operation of a vehicle while intoxicated shall constitute a prior conviction.

<u>Present law</u> provides that in making this determination, a prior conviction shall not include a conviction for an offense committed more than ten years prior to the commission of the current offense for which the defendant is being tried. <u>Present law</u> further provides that periods of time during which the offender was awaiting trial, on probation or parole, under an order of attachment for failure to appear, or incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.

<u>Proposed law</u> repeals the <u>present law</u> provision that provides that a prior conviction shall not include a conviction for an offense committed more than ten years prior to the commission of the current offense for which the defendant is being tried.

(Amends R.S. 14:98(F))