

Regular Session, 2014

SENATE BILL NO. 289

BY SENATOR JOHNS

DWI. Provides relative to DWI convictions. (8/1/14)

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AN ACT

To amend and reenact R.S. 32:393(C)(1)(b)(iv), 414(A)(1)(a), and the introductory paragraph of 853(A)(1)(c) and 853(A)(1)(c)(iii), relative to motor vehicles and traffic regulation; to provide relative to reports of traffic violations made to the Department of Public Safety and Corrections; to provide relative to suspension of driving privileges for a DWI conviction; to provide that a suspended sentence and probation for certain DWI offenses is a conviction of DWI for purposes of suspending a driver's license under certain circumstances; to provide relative to vehicle operating records; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:393(C)(1)(b)(iv), 414(A)(1)(a), and the introductory paragraph of 853(A)(1)(c) and 853(A)(1)(c)(iii) are hereby amended and reenacted to read as follows:

§393. Persons charged with traffic violations; time for disposition, licenses, reports, and records to be sent to Department of Public Safety and Corrections; fee charged; record of unpaid traffic fines and parking fines

* * *

1 C.(1) * * *

2 (b) If such person is convicted and sentenced thereupon, or his bail is
3 forfeited as a result of a final judgment of forfeiture, or other final disposition be
4 made, an abstract of the report, all parking convictions only excepted, shall be sent
5 by the court or the district attorney, as the case may be, to the commissioner as
6 follows:

7 * * *

8 (iv) A conviction shall be reported to the department regardless of whether
9 the provisions of either Article 893 or 894 of the Code of Criminal Procedure are
10 invoked. **A conviction under either Article 893 or 894 of the Code of Criminal**
11 **Procedure shall not impact the application of the provisions of R.S. 32:414.**

12 * * *

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

14 A.(1)(a) The department shall suspend the license of any person for a period
15 of twelve months upon receiving, from any district, city, or municipal court, of this
16 state or of any other state, having traffic jurisdiction, or from any federal court or
17 magistrate having traffic jurisdiction, satisfactory evidence of the conviction or of
18 the entry of a plea of guilty or nolo contendere and sentence thereupon or of the
19 forfeiture of bail of any such person charged with the first offense for vehicular
20 negligent injuring, R.S. 14:39.1, or for operating a motor vehicle while under the
21 influence of beverages of high alcoholic content, of low alcoholic content, of
22 narcotic drugs, or of central nervous system stimulants, **regardless of whether the**
23 **conviction was entered pursuant to Code of Criminal Procedure Article 893 or**
24 **894, and the entry of a conviction pursuant to either article shall not impact the**
25 **mandatory suspension required pursuant to this article.** The department shall
26 promptly investigate an allegation made by such licensee that the suspension of his
27 driving privileges will deprive him or his family of the necessities of life, or will
28 prevent him from earning a livelihood. If the department so finds, it may reinstate
29 the license of such licensee; however, such suspension and reinstatement shall be

1 considered as a first suspension and grant of restricted driving privileges for the
2 purposes of R.S. 32:415.1, and the driving privileges of the licensee shall be
3 restricted as provided in R.S. 32:415.1 for a period of twelve months from the date
4 of conviction or the entry of a plea of guilty or nolo contendere and sentence
5 thereupon or of the forfeiture of bail. Notice of the restriction shall be attached to the
6 license.

7 * * *

8 §853. Commissioner to furnish operating records; other information; fees;
9 withdrawal of forms or information

10 A.(1) * * *

11 (c) The operating record of a person shall not include those arrests for a first
12 or second violation of any **state, local, parish, city, municipal, or other**
13 **government** ordinance, ~~or statute, or legal provision~~ making criminal the ~~driving~~
14 **operating** of a motor vehicle while **intoxicated or** under the influence of alcoholic
15 beverages, **including but not limited to R.S. 14:98**, nor shall it include any record
16 of any civil sanction imposed, including the suspension of a license, as a result of
17 such an arrest when any of the following occurs:

18 * * *

19 (iii) The person was convicted or entered a plea, and ~~such conviction or plea~~
20 ~~was subject to the provisions of Code of Criminal Procedure Article 894. However,~~
21 ~~if the court, clerk, or district attorney subsequently reports that the person was denied~~
22 ~~a final dismissal, then the department shall add the conviction to the~~ **court, clerk, or**
23 **district attorney subsequently reports that the person achieved a final dismissal**
24 **under the provisions of Code of Criminal Procedure Article 894. Unless and**
25 **until such notice is received, the department shall add a conviction entered**
26 **under Article 894 to the person's** operating record and suspend or revoke the
27 license in accordance with law after issuance of proper notice to the person.

28 * * *

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Sharon F. Lyles.

DIGEST

Johns (SB 289)

Present law provides that every court in this state is to keep a full report of every case in which a person is charged with violation of any provision of present law relative to motor vehicles and traffic regulations, or any regulation of the Dept. of Public Safety and Corrections (DPSC) adopted pursuant to present law, or any state law or of any municipal or parish ordinance regulating the operation of motor vehicles on highways.

Proposed law retains present law.

Present law provides that if a person charged with a violation of present law relative to motor vehicles and traffic regulations is convicted and sentenced, or if his bail is forfeited, or if other final disposition be made, an abstract of the report is to be sent by the court or the district attorney to DPSC. Present law further provides that a conviction is to be reported regardless of whether the person has been placed on probation for the offense pursuant to present law.

Proposed law retains present law.

Present law requires DPSC to suspend the driver's license of any person for a period of 12 months upon receiving satisfactory evidence of the conviction, guilty plea, or nolo contendere plea and sentencing of any person charged with a first offense of the present law crimes of vehicular negligent injuring or operating a motor vehicle while under the influence (DWI) of beverages of high alcoholic content, low alcoholic content, narcotic drugs, or central nervous system stimulants.

Proposed law retains present law and clarifies that a suspended sentence and probation are to be considered as convictions for purposes of present law requiring suspension of the person's driver's license.

Present law provides that a person's vehicle operating record cannot include an arrest for a first or second misdemeanor DWI violation when the person was convicted or entered a plea, and the sentence was suspended and the person placed on probation pursuant to present law.

Proposed law clarifies that a person's vehicle operating record cannot include an arrest for a first or second violation of any state, local, parish, city, municipal, or other government ordinance, statute, or legal provision making criminal the operating of a motor vehicle while intoxicated or under the influence of alcohol, including but not limited to R.S. 14:98, in certain circumstances.

Present law further provides that DPSC is to add the conviction to the operating record and suspend or revoke the person's driver's license only if the court, clerk, or district attorney subsequently reports that the person was denied a final dismissal.

Proposed law changes present law to provide that DPSC is to add the first or second misdemeanor DWI conviction to the person's vehicle operating record when the sentence was suspended and the person was placed on probation, until such time as DPSC receives notice that the person achieved a final dismissal under present law.

Effective August 1, 2014.

(Amends R.S. 32:393(C)(1)(b)(iv), 414(A)(1)(a), and 853(A)(1)(c)(intro para) and

853(A)(1)(c)(iii))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,
Highways, and Public Works to the original bill

1. Adds that the commissioner shall not include in a person's vehicle operating record arrests for a first or second violation of any state, local, parish, city, municipal, or other government ordinance, statute, or legal provision making criminal operating a motor vehicle while intoxicated, including but not limited to R.S. 14:98, if DPSC receives a report that the person achieved a final dismissal under the provisions of CCrP Art. 894.