

Regular Session, 2014

HOUSE BILL NO. 511

BY REPRESENTATIVE GUILLORY

DWI: Provides relative to operating a vehicle while intoxicated

1 AN ACT

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, a conviction for an offense under R.S.

14:39.1, under R.S. 14:32.1, R.S. 14:39.1, or R.S. 14:39.2, or under a comparable statute or ordinance of another jurisdiction, as described in Paragraph (1) of this Subsection, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated, while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance if committed more than ten years prior to the commission of the crime for which the defendant is being tried and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was awaiting trial, on probation or parole for an offense described in this Paragraph (1) of this Subsection, 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.

* * *

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.

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

Present law 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.

Present law provides for a ten-year cleansing period provision which states that a prior conviction for vehicular homicide, vehicular negligent injuring, first degree vehicular negligent injuring, or any other state or local DWI offense which occurred more than ten years prior to the commission of the current offense shall not be considered a prior conviction.

Proposed law removes convictions of vehicular homicide and first degree vehicular negligent injuring from the ten-year cleansing period so that a conviction for either of these offenses shall count as a prior conviction regardless of the date of conviction relative to the current offense.

Present law 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.

Proposed law retains present law.

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

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Deleted provisions which would have repealed the present law provision 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.
2. Removed vehicular homicide, vehicular negligent injuring, and first degree vehicular negligent injuring from the present law ten-year cleansing period for the purposes of determining whether a defendant has a prior conviction for a DWI offense.

House Floor Amendments to the engrossed bill.

1. Deleted proposed law change that would have excluded vehicular negligent injuring from the present law ten-year cleansing period.