

SENATE BILL NO. 277

BY SENATORS PERRY, DORSEY-COLOMB AND GUILLORY

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AN ACT

To amend and reenact R.S. 14:98, 98.1, 98.2, and 98.3, and to enact R.S. 14:98.4, 98.5, 98.6, 98.7, and 98.8, relative to driving offenses; to provide relative to the crimes of operating a motor vehicle while intoxicated, underage operating a vehicle while intoxicated, unlawful refusal to submit to chemical tests, and operating a vehicle while under suspension; to provide definitions; to provide penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:98, 98.1, 98.2, and 98.3 are hereby amended and reenacted and R.S. 14:98.4, 98.5, 98.6, 98.7, and 98.8 are hereby enacted to read as follows:

§98. Operating a vehicle while intoxicated

A.(1) The crime of operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when **any of the following conditions exist:**

- (a) The operator is under the influence of alcoholic beverages;~~or,~~
- (b) The operator's blood alcohol concentration is 0.08 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood;~~or,~~
- (c) The operator is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964;~~or,~~
- (d)(i) The operator is under the influence of a combination of alcohol and one or more drugs ~~which~~ **that** are not controlled dangerous substances and ~~which~~ **that** are legally obtainable with or without a prescription.
- (ii) It shall be an affirmative defense to any charge under this Subparagraph ~~pursuant to this Section~~ that the label on the container of the prescription drug or the

1 manufacturer's package of the drug does not contain a warning against combining  
2 the medication with alcohol.

3 (e)(i) The operator is under the influence of one or more drugs ~~which~~ **that** are  
4 not controlled dangerous substances and ~~which~~ **that** are legally obtainable with or  
5 without a prescription.

6 (ii) It shall be an affirmative defense to any charge under this Subparagraph  
7 ~~pursuant to this Section~~ that the operator did not knowingly consume quantities of  
8 the drug or drugs ~~which~~ **that** substantially exceed the dosage prescribed by the  
9 physician or the dosage recommended by the manufacturer of the drug.

10 (2) A valid driver's license shall not be an element of the offense, and the lack  
11 thereof shall not be a defense to a prosecution for operating a vehicle while  
12 intoxicated.

13 ~~B.(1) On a first conviction, notwithstanding any other provision of law to the~~  
14 ~~contrary, the offender shall be fined not less than three hundred dollars nor more than~~  
15 ~~one thousand dollars, and shall be imprisoned for not less than ten days nor more~~  
16 ~~than six months. Imposition or execution of sentence shall not be suspended unless:~~

17 ~~(a) The offender is placed on probation with a minimum condition that he~~  
18 ~~serve two days in jail and participate in a court-approved substance abuse program~~  
19 ~~and participate in a court-approved driver improvement program, or~~

20 ~~(b) The offender is placed on probation with a minimum condition that he~~  
21 ~~perform four eight-hour days of court-approved community service activities, at least~~  
22 ~~half of which shall consist of participation in a litter abatement or collection~~  
23 ~~program, participate in a court-approved substance abuse program, and participate~~  
24 ~~in a court-approved driver improvement program. An offender, who participates in~~  
25 ~~a litter abatement or collection program pursuant to this Subparagraph, shall have no~~  
26 ~~cause of action for damages against the entity conducting the program or supervising~~  
27 ~~his participation therein, including a municipality, parish, sheriff, or other entity, nor~~  
28 ~~against any official, employee, or agent of such entity, for any injury or loss suffered~~  
29 ~~by him during or arising out of his participation in the program, if such injury or loss~~  
30 ~~is a direct result of the lack of supervision or act or omission of the supervisor, unless~~

1 the injury or loss was caused by the intentional or grossly negligent act or omission  
2 of the entity or its official, employee, or agent.

3 ~~(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or~~  
4 ~~more by weight based on grams of alcohol per one hundred cubic centimeters of~~  
5 ~~blood, at least forty-eight hours of the sentence imposed pursuant to Paragraph~~  
6 ~~(B)(1) of this Subsection shall be served without the benefit of parole, probation, or~~  
7 ~~suspension of sentence. Imposition or execution of the remainder of the sentence~~  
8 ~~shall not be suspended unless the offender complies with Subparagraph (B)(1)(a) or~~  
9 ~~(b) of this Subsection.~~

10 ~~(b) If the offender had a blood alcohol concentration of 0.20 percent or more~~  
11 ~~by weight based on grams of alcohol per one hundred cubic centimeters of blood, the~~  
12 ~~offender shall be fined not less than seven hundred fifty dollars nor more than one~~  
13 ~~thousand dollars and at least forty-eight hours of the sentence imposed pursuant to~~  
14 ~~Paragraph (B)(1) of this Subsection shall be served without the benefit of parole,~~  
15 ~~probation, or suspension of sentence. Imposition or execution of the remainder of the~~  
16 ~~sentence shall not be suspended unless the offender complies with Subparagraph~~  
17 ~~(B)(1)(a) or (b) of this Subsection.~~

18 ~~C.(1) On a conviction of a second offense, notwithstanding any other~~  
19 ~~provision of law to the contrary except as provided in Paragraphs (3) and (4) of this~~  
20 ~~Subsection, regardless of whether the second offense occurred before or after the~~  
21 ~~first conviction, the offender shall be fined not less than seven hundred fifty dollars,~~  
22 ~~nor more than one thousand dollars, and shall be imprisoned for not less than thirty~~  
23 ~~days nor more than six months. At least forty-eight hours of the sentence imposed~~  
24 ~~shall be served without benefit of parole, probation, or suspension of sentence.~~  
25 ~~Nothing herein shall prohibit a court from sentencing a defendant to home~~  
26 ~~incarceration, if otherwise allowed under the provisions of Article 894.2 of the Code~~  
27 ~~of Criminal Procedure. Imposition or execution of the remainder of the sentence~~  
28 ~~shall not be suspended unless:~~

29 ~~(a) The offender is placed on probation with a minimum condition that he~~  
30 ~~serve fifteen days in jail and participate in a court-approved substance abuse program~~

1 and participate in a court-approved driver improvement program; or

2 ~~(b) The offender is placed on probation with a minimum condition that he~~  
3 ~~perform thirty eight-hour days of court-approved community service activities, at~~  
4 ~~least half of which shall consist of participation in a litter abatement or collection~~  
5 ~~program, and participate in a court-approved substance abuse program, and~~  
6 ~~participate in a court-approved driver improvement program. An offender, who~~  
7 ~~participates in a litter abatement or collection program pursuant to this~~  
8 ~~Subparagraph, shall have no cause of action for damages against the entity~~  
9 ~~conducting the program or supervising his participation therein, including a~~  
10 ~~municipality, parish, sheriff, or other entity, nor against any official, employee, or~~  
11 ~~agent of such entity, for any injury or loss suffered by him during or arising out of~~  
12 ~~his participation therein, if such injury or loss is a direct result of the lack of~~  
13 ~~supervision or act or omission of the supervisor, unless the injury or loss was caused~~  
14 ~~by the intentional or grossly negligent act or omission of the entity or its official,~~  
15 ~~employee, or agent.~~

16 ~~(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or~~  
17 ~~more by weight based on grams of alcohol per one hundred cubic centimeters of~~  
18 ~~blood, at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of~~  
19 ~~this Subsection shall be served without the benefit of parole, probation, or suspension~~  
20 ~~of sentence. Imposition or execution of the remainder of the sentence shall not be~~  
21 ~~suspended unless the offender complies with Subparagraph (1)(a) or (b) of this~~  
22 ~~Subsection.~~

23 ~~(b) If the offender had a blood alcohol concentration of 0.20 percent or more~~  
24 ~~by weight based on grams of alcohol per one hundred cubic centimeters of blood, the~~  
25 ~~offender shall be fined one thousand dollars and at least ninety-six hours of the~~  
26 ~~sentence imposed pursuant to Paragraph (1) of this Subsection shall be served~~  
27 ~~without the benefit of parole, probation, or suspension of sentence. Imposition or~~  
28 ~~execution of the remainder of the sentence shall not be suspended unless the offender~~  
29 ~~complies with Subparagraph (1)(a) or (b) of this Subsection.~~

30 ~~(3) Notwithstanding the provisions of Paragraph (1) of this Subsection, on a~~

1 conviction of a second offense when the first offense was for the crime of vehicular  
2 homicide in violation of R.S. 14:32.1, or first degree vehicular negligent injuring in  
3 violation of R.S. 14:39.2, the offender shall be imprisoned with or without hard labor  
4 for not less than one year nor more than five years, and shall be fined two thousand  
5 dollars. At least six months of the sentence of imprisonment imposed shall be  
6 without benefit of probation, parole, or suspension of sentence. Imposition or  
7 execution of the remainder of the sentence shall not be suspended unless the  
8 provisions of Subparagraph (1)(a) or (b) of this Subsection are complied with.

9 (4) Notwithstanding the provisions of Paragraph (1) of this Subsection, on a  
10 conviction of a second offense when the arrest for the second offense occurs within  
11 one year of the commission of the first offense, the offender shall be imprisoned for  
12 thirty days without benefit of parole, probation, or suspension of sentence and shall  
13 participate in a court-approved substance abuse program and in a court-approved  
14 driver improvement program.

15 D.(1)(a) On a conviction of a third offense, notwithstanding any other  
16 provision of law to the contrary and regardless of whether the offense occurred  
17 before or after an earlier conviction, the offender shall be imprisoned with or without  
18 hard labor for not less than one year nor more than five years and shall be fined two  
19 thousand dollars. Except as provided in Paragraph (4) of this Subsection, one year  
20 of the sentence of imprisonment shall be imposed without benefit of probation,  
21 parole, or suspension of sentence. The court, in its discretion, may suspend all or  
22 any part of the remainder of the sentence of imprisonment. If any portion of the  
23 sentence is suspended, except for a suspension of sentence pursuant to the provisions  
24 of Paragraph (4) of this Subsection, the offender shall be placed on supervised  
25 probation with the Department of Public Safety and Corrections, division of  
26 probation and parole, for a period of time equal to the remainder of the sentence of  
27 imprisonment, which probation shall commence on the day after the offender's  
28 release from custody.

29 (b) Any offender placed on probation pursuant to the provisions of this  
30 Subsection shall be required as a condition of probation to participate in thirty eight-

1 ~~hour days of court-approved community service activities and to submit to and~~  
2 ~~complete either of the following requirements:~~

3 ~~(i) To immediately undergo an evaluation by the Department of Health and~~  
4 ~~Hospitals, office of behavioral health to determine the nature and extent of the~~  
5 ~~offender's substance abuse disorder and to participate in any treatment plan~~  
6 ~~recommended by the office of behavioral health, including treatment in an inpatient~~  
7 ~~facility approved by the office for a period of not less than four weeks followed by~~  
8 ~~outpatient treatment services for a period not to exceed twelve months.~~

9 ~~(ii) To participate in substance abuse treatment in an alcohol and drug abuse~~  
10 ~~program provided by a drug division subject to the applicable provisions of R.S.~~  
11 ~~13:5301 et seq. if the offender is otherwise eligible to participate in such program.~~

12 ~~(c) In addition to the requirements set forth in Subparagraph (b) of this~~  
13 ~~Paragraph, any offender placed on probation pursuant to the provisions of Subsection~~  
14 ~~D of this Section shall be placed in a home incarceration program approved by the~~  
15 ~~division of probation and parole for a period of time not less than six months and not~~  
16 ~~more than the remainder of the sentence of imprisonment.~~

17 ~~(d) If any offender placed on probation pursuant to the provisions of~~  
18 ~~Subsection D of this Section fails to complete the substance abuse treatment required~~  
19 ~~by the provisions of this Paragraph or violates any other condition of probation,~~  
20 ~~including conditions of home incarceration, his probation may be revoked, and he~~  
21 ~~may be ordered to serve the balance of the sentence of imprisonment, without credit~~  
22 ~~for time served under home incarceration.~~

23 ~~(2)(a) In addition, the court shall order, subject to the discretion of the~~  
24 ~~prosecuting district attorney, that the vehicle being driven by the offender at the time~~  
25 ~~of the offense shall be seized and impounded, and sold at auction in the same manner~~  
26 ~~and under the same conditions as executions of writ of seizures and sale as provided~~  
27 ~~in Book V, Title II, Chapter 4 of the Code of Civil Procedure. If the district attorney~~  
28 ~~elects to forfeit the vehicle, he shall file a written motion at least five days prior to~~  
29 ~~sentencing stating his intention to forfeit the vehicle. When the district attorney~~  
30 ~~elects to forfeit the vehicle, the court shall order it forfeited.~~

1                   ~~(b) The vehicle shall be exempt from sale if it was stolen, or if the driver of~~  
2                   ~~the vehicle at the time of the violation was not the owner and the owner did not know~~  
3                   ~~that the driver was operating the vehicle while intoxicated. If this exemption is~~  
4                   ~~applicable, the vehicle shall not be released from impoundment until such time as~~  
5                   ~~towing and storage fees have been paid.~~

6                   ~~(c) In addition, the vehicle shall be exempt from sale if all towing and storage~~  
7                   ~~fees are paid by a valid lienholder.~~

8                   ~~(d) The proceeds of the sale shall first be used to pay court costs and towing~~  
9                   ~~and storage costs, and the remainder shall be allocated as follows: sixty percent of~~  
10                  ~~the funds shall go to the arresting agency, twenty percent to the prosecuting district~~  
11                  ~~attorney, and twenty percent to the Louisiana Property and Casualty Insurance~~  
12                  ~~Commission for its use in studying other ways to reduce drunk driving and insurance~~  
13                  ~~rates.~~

14                  ~~(3)(a) An offender sentenced to home incarceration during probation shall be~~  
15                  ~~subject to special conditions to be determined by the court, which shall include but~~  
16                  ~~not be limited to the following:~~

17                         ~~(i) Electronic monitoring.~~

18                         ~~(ii) Curfew restrictions.~~

19                         ~~(iii) Home visitation at least once per month by the Department of Public~~  
20                         ~~Safety and Corrections for the first six months. After the first six months, the level~~  
21                         ~~of supervision will be determined by the department based upon a risk assessment~~  
22                         ~~instrument.~~

23                         ~~(b) The court shall also require the offender to obtain employment and to~~  
24                         ~~participate in a court-approved driver improvement program at his expense. The~~  
25                         ~~activities of the offender outside of his home shall be limited to traveling to and from~~  
26                         ~~work, church services, Alcoholics Anonymous meetings, or a court-approved driver~~  
27                         ~~improvement program.~~

28                         ~~(c) Offenders sentenced to home incarceration required under the provisions~~  
29                         ~~of this Section shall be subject to all other applicable provisions of Code of Criminal~~  
30                         ~~Procedure Article 894.2.~~

1           ~~(4) Notwithstanding the provisions of Subparagraph (1)(a) of this Subsection,~~  
2           ~~the one-year period described in Paragraph (1) of this Subsection which shall~~  
3           ~~otherwise be imposed without the benefit of probation, parole, or suspension of~~  
4           ~~sentence, may also be suspended if the offender is accepted into a drug division~~  
5           ~~probation program pursuant to R.S. 13:5301 et seq. The provisions of Paragraph (2)~~  
6           ~~of this Subsection shall also be applicable to any offender whose sentence is served~~  
7           ~~with the benefit of probation, parole, or suspension of sentence pursuant to the~~  
8           ~~provisions of this Paragraph.~~

9           ~~E.(1)(a) Except as otherwise provided in Subparagraph (4)(b) of this~~  
10          ~~Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any~~  
11          ~~other provision of law to the contrary and regardless of whether the fourth offense~~  
12          ~~occurred before or after an earlier conviction, the offender shall be imprisoned with~~  
13          ~~or without hard labor for not less than ten years nor more than thirty years and shall~~  
14          ~~be fined five thousand dollars. Except as provided in Paragraph (5) of this~~  
15          ~~Subsection, two years of the sentence of imprisonment shall be imposed without~~  
16          ~~benefit of parole, probation, or suspension of sentence. The court, in its discretion,~~  
17          ~~may suspend all or any part of the remainder of the sentence of imprisonment. If any~~  
18          ~~portion of the sentence is suspended, except for a suspension of sentence pursuant~~  
19          ~~to the provisions of Paragraph (5) of this Subsection, the offender shall be placed on~~  
20          ~~supervised probation with the Department of Public Safety and Corrections, division~~  
21          ~~of probation and parole, for a period of time not to exceed five years, which~~  
22          ~~probation shall commence on the day after the offender's release from custody.~~

23          ~~(b) Any offender placed on probation pursuant to the provisions of this~~  
24          ~~Subsection shall be required, as a condition of probation, to participate in forty eight-~~  
25          ~~hour days of court-approved community service activities and to submit to and~~  
26          ~~complete either of the following requirements:~~

27                 ~~(i) To immediately undergo an evaluation by the Department of Health and~~  
28                 ~~Hospitals, office of behavioral health to determine the nature and extent of the~~  
29                 ~~offender's substance abuse disorder and to participate in any treatment plan~~  
30                 ~~recommended by the office of behavioral health, including treatment in an inpatient~~



1 facility approved by the office for a period of not less than four weeks followed by  
2 outpatient treatment services for a period not to exceed twelve months.

3 (ii) ~~To participate in substance abuse treatment in an alcohol and drug abuse~~  
4 ~~program provided by a drug division subject to the applicable provisions of R.S.~~  
5 ~~13:5301 et seq. if the offender is otherwise eligible to participate in such program.~~

6 (c) ~~In addition to the requirements set forth in Subparagraph (b) of this~~  
7 ~~Paragraph, any offender placed on probation pursuant to the provisions of Subsection~~  
8 ~~E of this Section shall be placed in a home incarceration program approved by the~~  
9 ~~division of probation and parole for a period of time not less than one year nor more~~  
10 ~~than the remainder of the term of supervised probation.~~

11 (d) ~~If any offender placed on probation pursuant to the provisions of~~  
12 ~~Subsection E of this Section fails to complete the substance abuse treatment required~~  
13 ~~by the provisions of this Paragraph or violates any other condition of probation,~~  
14 ~~including conditions of home incarceration, his probation may be revoked, and he~~  
15 ~~may be ordered to serve the balance of the sentence of imprisonment, without credit~~  
16 ~~for time served under home incarceration.~~

17 (2)(a) ~~In addition, the court shall order, subject to the discretion of the~~  
18 ~~prosecuting district attorney, that the vehicle being driven by the offender at the time~~  
19 ~~of the offense be seized and impounded, and be sold at auction in the same manner~~  
20 ~~and under the same conditions as executions of writ of seizure and sale as provided~~  
21 ~~in Book V, Title II, Chapter 4 of the Code of Civil Procedure. If the district attorney~~  
22 ~~elects to forfeit the vehicle, he shall file a written motion at least five days prior to~~  
23 ~~sentencing stating his intention to forfeit the vehicle.~~

24 (b) ~~The vehicle shall be exempt from sale if it was stolen, or if the driver of~~  
25 ~~the vehicle at the time of the violation was not the owner and the owner did not know~~  
26 ~~that the driver was operating the vehicle while intoxicated. If this exemption is~~  
27 ~~applicable, the vehicle shall not be released from impoundment until such time as~~  
28 ~~towing and storage fees have been paid.~~

29 (c) ~~In addition, the vehicle shall be exempt from sale if all towing and storage~~  
30 ~~fees are paid by a valid lienholder.~~

1           ~~(d) The proceeds of the sale shall first be used to pay court costs and towing~~  
2           ~~and storage costs, and the remainder shall be allocated as follows: sixty percent of~~  
3           ~~the funds shall go to the arresting agency, twenty percent to the prosecuting district~~  
4           ~~attorney, and twenty percent to the Louisiana Property and Casualty Insurance~~  
5           ~~Commission for its use in studying other ways to reduce drunk driving and insurance~~  
6           ~~rates.~~

7           ~~(3)(a) An offender sentenced to home incarceration during probation shall be~~  
8           ~~subject to special conditions to be determined by the court, which shall include but~~  
9           ~~not be limited to the following:~~

10           ~~(i) Electronic monitoring.~~

11           ~~(ii) Curfew restrictions.~~

12           ~~(iii) Home visitation at least once per month by the Department of Public~~  
13           ~~Safety and Corrections for the first six months. After the first six months, the level~~  
14           ~~of supervision will be determined by the department based upon a risk assessment~~  
15           ~~instrument.~~

16           ~~(b) The court shall also require the offender to obtain employment and to~~  
17           ~~participate in a court-approved driver improvement program at his expense. The~~  
18           ~~activities of the offender outside of his home shall be limited to traveling to and from~~  
19           ~~work, church services, Alcoholics Anonymous meetings, or a court-approved driver~~  
20           ~~improvement program.~~

21           ~~(c) Offenders sentenced to home incarceration required under the provisions~~  
22           ~~of this Section shall be subject to all other applicable provisions of Code of Criminal~~  
23           ~~Procedure Article 894.2.~~

24           ~~(4)(a) If the offender has previously been required to participate in substance~~  
25           ~~abuse treatment and home incarceration pursuant to Subsection D of this Section, the~~  
26           ~~offender shall not be sentenced to substance abuse treatment and home incarceration~~  
27           ~~for a fourth or subsequent offense, but shall be imprisoned at hard labor for not less~~  
28           ~~than ten nor more than thirty years, and at least three years of the sentence shall be~~  
29           ~~imposed without benefit of suspension of sentence, probation, or parole.~~

30           ~~(b) If the offender has previously received the benefit of suspension of~~

1 sentence, probation, or parole as a fourth offender, after serving the mandatory  
2 sentence required by Subparagraph (E)(1)(a), no part of the remainder of the  
3 sentence may be imposed with benefit of suspension of sentence, probation, or  
4 parole, and no portion of the sentence shall be imposed concurrently with the  
5 remaining balance of any sentence to be served for a prior conviction for any  
6 offense.

7 (5)(a) Notwithstanding the provisions of Subparagraph (1)(a) of this  
8 Subsection, the two-year period described in Paragraph (1) of this Subsection which  
9 shall otherwise be imposed without the benefit of parole, probation, or suspension  
10 of sentence may also be suspended if the offender is accepted into a drug division  
11 probation program pursuant to R.S. 13:5301 et seq. The provisions of Paragraph (2)  
12 of this Subsection shall also be applicable to any offender whose sentence is served  
13 with the benefit of probation, parole, or suspension of sentence pursuant to the  
14 provisions of this Subparagraph.

15 (b) If the offender has previously participated in a drug division probation  
16 program pursuant to the provisions of Paragraph (D)(4) of this Section, the offender  
17 shall not be eligible to serve his sentence with the benefit of probation, parole, or  
18 suspension of sentence pursuant to the provisions of Subparagraph (a) of this  
19 Paragraph, but shall be imprisoned at hard labor for not less than ten nor more than  
20 thirty years, and at least three years of the sentence shall be imposed without benefit  
21 of suspension of sentence, probation, or parole.

22 F.(1) For purposes of determining whether a defendant has a prior conviction  
23 for violation of this Section, a conviction under either R.S. 14:32.1, vehicular  
24 homicide, R.S. 14:39.1, vehicular negligent injuring, or R.S. 14:39.2, first degree  
25 vehicular negligent injuring, or a conviction under the laws of any state or an  
26 ordinance of a municipality, town, or similar political subdivision of another state,  
27 which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or  
28 other means of conveyance while intoxicated, while impaired, or while under the  
29 influence of alcohol, drugs, or any controlled dangerous substance shall constitute  
30 a prior conviction. This determination shall be made by the court as a matter of law.

1           ~~(2) For purposes of this Section, a prior conviction shall not include a~~  
2           ~~conviction for an offense under this Section, under R.S. 14:32.1, R.S. 14:39.1, or~~  
3           ~~R.S. 14:39.2, or under a comparable statute or ordinance of another jurisdiction, as~~  
4           ~~described in Paragraph (1) of this Subsection, if committed more than ten years prior~~  
5           ~~to the commission of the crime for which the defendant is being tried and such~~  
6           ~~conviction shall not be considered in the assessment of penalties hereunder.~~  
7           ~~However, periods of time during which the offender was awaiting trial, on probation~~  
8           ~~or parole for an offense described in Paragraph (1) of this Subsection, under an order~~  
9           ~~of attachment for failure to appear, or incarcerated in a penal institution in this or any~~  
10          ~~other state shall be excluded in computing the ten-year period.~~

11           ~~G. The legislature hereby finds and declares that conviction of a third or~~  
12          ~~subsequent DWI offense is presumptive evidence of the existence of a substance~~  
13          ~~abuse disorder in the offender posing a serious threat to the health and safety of the~~  
14          ~~public. Further, the legislature finds that there are successful treatment methods~~  
15          ~~available for treatment of addictive disorders. Court-approved substance abuse~~  
16          ~~programs provided for in Subsections B, C, and D of this Section shall include a~~  
17          ~~screening procedure to determine the portions of the program which may be~~  
18          ~~applicable and appropriate for individual offenders and shall assess the offender's~~  
19          ~~degree of alcohol abuse.~~

20           ~~H. "Community service activities" as used in this Section may include duty~~  
21          ~~in any morgue, coroner's office, or emergency treatment room of a state-operated~~  
22          ~~hospital or other state-operated emergency treatment facility, with the consent of the~~  
23          ~~administrator of the morgue, coroner's office, hospital, or facility.~~

24           ~~I. An offender ordered to participate in a substance abuse program in~~  
25          ~~accordance with the provisions of this Section shall pay the cost incurred in~~  
26          ~~participating in the program. Failure to make such payment shall subject the offender~~  
27          ~~to revocation of probation, unless the court determines that the offender is unable to~~  
28          ~~pay. If the court determines that the offender is unable to pay, the state shall pay for~~  
29          ~~the cost of the substance abuse treatment. An offender sentenced to home~~  
30          ~~incarceration and to participate in a driver improvement program shall pay the cost~~

1 incurred in participating in home incarceration and a driver improvement program  
2 unless the court determines that the offender is unable to pay. However, if the court  
3 determines that an offender is unable to pay the costs incurred for participating in a  
4 substance abuse treatment program, driver improvement program, or home  
5 incarceration, the court may, upon completion of such program or home  
6 incarceration, require that the offender reimburse the state for all or a portion of such  
7 costs pursuant to a payment schedule determined by the court.

8 J. This Subsection shall be cited as the "Child Endangerment Law". When the  
9 state proves in addition to the elements of the crime as set forth in Subsection A of  
10 this Section that a minor child twelve years of age or younger was a passenger in the  
11 motor vehicle, aircraft, watercraft, vessel, or other means of motorized conveyance  
12 at the time of the commission of the offense, of the sentence imposed by the court,  
13 the execution of the minimum mandatory sentence provided by Subsection B or C  
14 of this Section, as appropriate, shall not be suspended. If imprisonment is imposed  
15 pursuant to the provisions of Subsection D, the execution of the minimum mandatory  
16 sentence shall not be suspended. If imprisonment is imposed pursuant to the  
17 provisions of Subsection E, at least two years of the sentence shall be imposed  
18 without benefit of suspension of sentence.

19 K.(1) In addition to any penalties imposed under this Section, upon  
20 conviction of a first offense if the offender had a blood alcohol concentration of 0.20  
21 percent or more by weight based on grams of alcohol per one hundred cubic  
22 centimeters of blood the driver's license of the offender shall be suspended for two  
23 years. Such offender may apply for a restricted license to be in effect during the  
24 entire period of suspension upon proof to the Department of Public Safety and  
25 Corrections that his motor vehicle has been equipped with a functioning ignition  
26 interlock device in compliance with the requirements of R.S. 32:378.2. The ignition  
27 interlock device shall remain installed and operative on his vehicle during the first  
28 twelve-month period of suspension of his driver's license following the date of  
29 conviction.

30 (2)(a) In addition to any penalties imposed under this Section, upon

1 conviction of a second offense, any vehicle, while being operated by the offender,  
2 shall be equipped with a functioning ignition interlock device in accordance with the  
3 provisions of R.S. 15:306. This requirement shall remain in effect for a period of not  
4 less than six months. In addition, the device shall remain installed and operative  
5 during any period that the offender's operator's license is suspended under law and  
6 for any additional period as determined by the court.

7 (b) ~~In addition to any penalties imposed under this Section and~~  
8 ~~notwithstanding the provisions of Subparagraph (2)(a) of this Subsection, upon~~  
9 ~~conviction of a second offense if the offender had a blood alcohol concentration of~~  
10 ~~0.20 percent or more by weight based on grams of alcohol per one hundred cubic~~  
11 ~~centimeters of blood, the driver's license of the offender shall be suspended for four~~  
12 ~~years. The offender may apply for a restricted license to be in effect during the~~  
13 ~~period of suspension upon proof to the Department of Public Safety and Corrections~~  
14 ~~that his motor vehicle has been equipped with a functioning ignition interlock device~~  
15 ~~in compliance with the requirements of R.S. 32:378.2. The ignition interlock device~~  
16 ~~shall remain installed and operative on his vehicle during the first three years of the~~  
17 ~~four-year period of the suspension of his driver's license.~~

18 (3)(a) ~~Notwithstanding the provisions of Paragraph (1) of this Subsection and~~  
19 ~~R.S. 32:414(D)(1)(b), upon conviction of a third or subsequent offense of the~~  
20 ~~provisions of this Section, any motor vehicle, while being operated by the offender,~~  
21 ~~shall be equipped with a functioning ignition interlock device in accordance with the~~  
22 ~~provisions of R.S. 15:306. The ignition interlock device shall remain installed and~~  
23 ~~operative until the offender has completed the requirements of substance abuse~~  
24 ~~treatment and home incarceration, or, if applicable, the requirements of the drug~~  
25 ~~division probation program provided in R.S. 13:5301 et seq., pursuant to the~~  
26 ~~provisions of Subsections D and E of this Section.~~

27 (b) ~~Any offender convicted of a third or subsequent offense of the provisions~~  
28 ~~of this Section shall, after one year of the suspension required by R.S.~~  
29 ~~32:414(D)(1)(a), upon proof of the Department of Public Safety and Corrections that~~  
30 ~~the motor vehicles being operated by the offender are equipped with functioning~~

1 ~~interlock devices, be issued a restricted driver's license. The restricted license shall~~  
 2 ~~be effective for the period of time that the offender's driver's license is suspended.~~  
 3 ~~The restricted license shall entitle the offender to operate the vehicles equipped with~~  
 4 ~~a functioning interlock device in order to earn a livelihood and to travel to and from~~  
 5 ~~the places designated in Paragraphs (D)(3) and (E)(3) of this Section.~~

6 ~~(4) The provisions of this Subsection shall not require installation of an~~  
 7 ~~ignition interlock device in any vehicle described in R.S. 32:378.2(f).~~

8 **B.(1) This Subsection shall be cited as the "Child Endangerment Law".**

9 **(2) When the state proves, in addition to the elements of the crime as set**  
 10 **forth in Subsection A of this Section, that a minor child twelve years of age or**  
 11 **younger was a passenger in the motor vehicle, aircraft, watercraft, vessel, or**  
 12 **other means of motorized conveyance at the time of the commission of the**  
 13 **offense:**

14 **(a) Except as provided in Subparagraphs (b) and (c) of this Paragraph,**  
 15 **the execution of the minimum mandatory sentence provided by R.S. 14:98.1 or**  
 16 **98.2, as appropriate, shall not be suspended.**

17 **(b) Notwithstanding any provision of law to the contrary, if**  
 18 **imprisonment is imposed pursuant to the provisions of R.S. 14:98.3, the**  
 19 **execution of the minimum mandatory sentence shall not be suspended.**

20 **(c) Notwithstanding any provision of law to the contrary, if**  
 21 **imprisonment is imposed pursuant to the provisions of R.S. 14:98.4, the**  
 22 **execution of the minimum mandatory sentence shall not be suspended.**

23 **C. Prior convictions. (1) For purposes of determining whether a**  
 24 **defendant has a prior conviction for a violation of this Section, a conviction**  
 25 **under any of the following shall constitute a prior conviction:**

26 **(a) R.S. 14:32.1, vehicular homicide.**

27 **(b) R.S. 14:32.8, third degree feticide.**

28 **(c) R.S. 14:39.1, vehicular negligent injuring.**

29 **(d) R.S. 14:39.2, first degree vehicular negligent injuring.**

30 **(e) A law of any state or an ordinance of a municipality, town, or similar**

1 political subdivision of another state that prohibits the operation of any motor  
2 vehicle, aircraft, watercraft, vessel, or other means of conveyance while  
3 intoxicated, while impaired, or while under the influence of alcohol, drugs, or  
4 any controlled dangerous substance.

5 (2) The determination under this Subsection shall be made by the court  
6 as a matter of law.

7 (3) For purposes of this Section, a prior conviction shall not include a  
8 conviction for an offense under this Section or under any offense listed in  
9 Paragraph (1) of this Subsection if committed more than ten years prior to the  
10 commission of the crime for which the defendant is being tried, and such  
11 conviction shall not be considered in the assessment of penalties in this Section.  
12 However, periods of time during which the offender was awaiting trial, on  
13 parole or probation for an offense under this Section or any offense described  
14 in Paragraph (1) of this Subsection, under an order of attachment for failure to  
15 appear, or incarcerated in a penal institution in this or any other state shall be  
16 excluded in computing the ten-year period.

17 D. Penalties. (1) On a conviction of a first offense violation of the  
18 provisions of this Section, notwithstanding any other provision of law to the  
19 contrary, the offender shall be sentenced under the provisions of R.S. 14:98.1.

20 (2)(a) Except as provided by Subparagraph (b) of this Paragraph, on a  
21 conviction of a second offense violation of the provisions of this Section,  
22 notwithstanding any other provision of law to the contrary and regardless of  
23 whether the second offense occurred before or after the first conviction, the  
24 offender shall be sentenced under the provisions of R.S. 14:98.2.

25 (b) If the conviction of a second offense violation of the provisions of this  
26 Section when the first offense was for the crime of vehicular homicide in  
27 violation of R.S. 14:32.1, third degree feticide in violation of R.S. 14:32.8, or  
28 first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender  
29 shall be sentenced under the provisions of R.S. 14:98.2(D).

30 (3) On a conviction of a third offense violation of the provisions of this



1           Section, notwithstanding any other provision of law to the contrary and  
2           regardless of whether the offense occurred before or after an earlier conviction,  
3           the offender shall be sentenced under the provisions of R.S. 14:98.3.

4           (4) On a conviction of a fourth or subsequent offense violation of the  
5           provisions of this Section, notwithstanding any other provision of law to the  
6           contrary and regardless of whether the fourth or subsequent offense occurred  
7           before or after an earlier conviction, the offender shall be sentenced under the  
8           provisions of R.S. 14:98.4.

9           E. The legislature hereby finds and declares that conviction of a third or  
10           subsequent offense of operating while intoxicated is presumptive evidence of the  
11           existence of a substance abuse disorder that poses a serious threat to the health  
12           and safety of the public. Further, the legislature finds that there are successful  
13           treatment methods available for treatment of addictive disorders.

14           F. Vehicle seizure and sale. (1) On a third or subsequent conviction of  
15           operating while intoxicated pursuant to this Section, in addition to any other  
16           sentence, the court shall order, upon motion of the prosecuting district attorney,  
17           that the vehicle being operated by the offender at the time of the offense be  
18           seized and impounded, and be sold at auction in the same manner and under the  
19           same conditions as executions of writs of seizure and sale as provided in Book  
20           V, Title II, Chapter 4 of the Code of Civil Procedure.

21           (2) The vehicle shall be exempt from sale if it was stolen, or if the driver  
22           of the vehicle at the time of the violation was not the owner and the owner did  
23           not know that the driver was operating the vehicle while intoxicated. If this  
24           exemption is applicable, the vehicle shall not be released from impoundment  
25           until such time as towing and storage fees have been paid. In addition, the  
26           vehicle shall be exempt from sale if all towing and storage fees are paid by a  
27           valid lienholder.

28           (3) If the district attorney elects to forfeit the vehicle, he shall file a  
29           written motion at least five days prior to sentencing, stating his intention to  
30           forfeit the vehicle. When the district attorney elects to forfeit the vehicle, the

1 court shall order it forfeited.

2 (4) The proceeds of the sale shall first be used to pay court costs and  
 3 towing and storage costs, and the remainder shall be allocated as follows:

4 (a) Sixty percent of the funds shall go to the arresting agency.

5 (b) Twenty percent of the funds shall go to the prosecuting district  
 6 attorney.

7 (c) Twenty percent of the funds shall go to the Louisiana Property and  
 8 Casualty Insurance Commission for its use in studying ways to reduce drunk  
 9 driving and insurance rates.

10 G.(1) If an offender placed on probation for a conviction of a violation  
 11 of this Section fails to complete the required substance abuse treatment, or fails  
 12 to participate in a driver improvement program, or violates any other condition  
 13 of probation, including conditions of home incarceration, his probation may be  
 14 revoked, and he may be ordered to serve the balance of the sentence of  
 15 imprisonment, without credit for time served under home incarceration.

16 (2) If the offender is found to be in violation of both the terms of his  
 17 release for good behavior by the Department of Public Safety and Corrections,  
 18 committee on parole, and in violation of his probation by the court, then the  
 19 remaining balance of his diminution of sentence shall be served first, with the  
 20 previously suspended sentence imposed by the court to run consecutively  
 21 thereafter.

22 §98.1. ~~Underage driving under the influence~~ Operating while intoxicated, first  
 23 offense; penalties

24 ~~A. The crime of underage operating a vehicle while intoxicated is the~~  
 25 ~~operating of any motor vehicle, aircraft, watercraft, vessel, or other means of~~  
 26 ~~conveyance when the operator's blood alcohol concentration is 0.02 percent or more~~  
 27 ~~by weight if the operator is under the age of twenty-one based on grams of alcohol~~  
 28 ~~per one hundred cubic centimeters of blood.~~

29 ~~B. Any underage person whose blood alcohol concentration is found to be in~~  
 30 ~~violation of R.S. 14:98(A)(1)(b) shall be charged under its provisions rather than~~

1 under this Section.

2 C. ~~On a first conviction, the offender shall be fined not less than one hundred~~  
3 ~~nor more than two hundred fifty dollars, and participate in a court-approved~~  
4 ~~substance abuse and driver improvement program.~~

5 D. ~~On a second or subsequent conviction, regardless of whether the second~~  
6 ~~offense occurred before or after the first conviction, the offender shall be fined not~~  
7 ~~less than one hundred fifty dollars nor more than five hundred dollars, and~~  
8 ~~imprisoned for not less than ten days nor more than three months. Imposition or~~  
9 ~~execution of sentence shall not be suspended unless:~~

10 (1) ~~The offender is placed on probation with a minimum condition that he~~  
11 ~~serve forty-eight hours in jail and participate in a court-approved substance abuse~~  
12 ~~and driver improvement program; or~~

13 (2) ~~The offender is placed on probation with a minimum condition that he~~  
14 ~~perform ten eight-hour days of court-approved community service activities, at least~~  
15 ~~half of which shall consist of participation in a litter abatement or collection program~~  
16 ~~and participate in a court-approved substance and driver improvement program.~~

17 E. ~~Court programs regarding substance abuse provided for in Subsections C~~  
18 ~~and D shall include a screening procedure to determine the portions of the program~~  
19 ~~which may be applicable and appropriate for individual offenders.~~

20 F. ~~An offender ordered to participate in a substance abuse program shall pay~~  
21 ~~the cost incurred in participating in the program. Failure to make such payment shall~~  
22 ~~subject the offender to revocation of probation, unless the court determines that the~~  
23 ~~offender is unable to pay.~~

24 **A.(1) Except as modified by the provisions of Paragraphs (2) and (3) of**  
25 **this Subsection, on a conviction of a first offense violation of R.S. 14:98, the**  
26 **offender shall be fined not less than three hundred dollars nor more than one**  
27 **thousand dollars, and shall be imprisoned for not less than ten days nor more**  
28 **than six months. Imposition or execution of sentence under this Paragraph shall**  
29 **not be suspended unless the offender is placed on probation with the minimum**  
30 **conditions that he complete all of the following:**

1           (a) Serve forty-eight hours in jail, which shall not be suspended, or in lieu  
2           thereof, perform no less than thirty-two hours of court-approved community  
3           service activities, at least half of which shall consist of participation in a litter  
4           abatement or collection program.

5           (b) Participate in a court-approved substance abuse program, which may  
6           include an assessment by a licensed clinician to determine if the offender has a  
7           diagnosis of substance abuse disorder. Nothing herein shall prohibit the court  
8           from modifying the portions of the program as may be applicable and  
9           appropriate to an individual offender as shown by the assessment.

10          (c) Participate in a court-approved driver improvement program.

11          (d) Except as provided by Subparagraph (3)(c) of this Subsection, the  
12          court may order that the offender not operate a motor vehicle during the period  
13          of probation, or such shorter time as set by the court, unless any vehicle, while  
14          being operated by the offender, is equipped with a functioning ignition interlock  
15          device in compliance with the requirements of R.S. 14:98.5(C) and R.S.  
16          32:378.2.

17          (2) If the offender had a blood alcohol concentration of 0.15 percent or  
18          more but less than 0.20 percent by weight based on grams of alcohol per one  
19          hundred cubic centimeters of blood, at least forty-eight hours of the sentence  
20          imposed pursuant to Paragraph (1) of this Subsection shall be served without  
21          the benefit of parole, probation, or suspension of sentence, and is to be served  
22          in addition to any sentence of imprisonment imposed pursuant to Subparagraph  
23          (1)(a) of this Subsection, provided that the total period of imprisonment upon  
24          conviction of the offense, including imprisonment for default in payment of a  
25          fine or costs, shall not exceed six months.

26          (3)(a) If the offender had a blood alcohol concentration of 0.20 percent  
27          or more by weight based on grams of alcohol per one hundred cubic centimeters  
28          of blood, the offender shall be fined not less than seven hundred fifty dollars nor  
29          more than one thousand dollars and at least forty-eight hours of the sentence  
30          imposed pursuant to Paragraph (1) of this Subsection shall be served without

1 the benefit of parole, probation, or suspension of sentence, and is to be served  
 2 in addition to any sentence of imprisonment imposed pursuant to Subparagraph  
 3 (1)(a) of this Subsection, provided that the total period of imprisonment upon  
 4 conviction of the offense, including imprisonment for default in payment of a  
 5 fine or costs, shall not exceed six months.

6 (b) In addition to any penalties imposed under this Section, upon  
 7 conviction of a first offense, if the offender had a blood alcohol concentration  
 8 of 0.20 percent or more by weight based on grams of alcohol per one hundred  
 9 cubic centimeters of blood, the driver's license of the offender shall be  
 10 suspended for two years.

11 (c) The court shall require that the offender not operate a motor vehicle  
 12 during the period of probation unless any vehicle, while being operated by the  
 13 offender, is equipped with a functioning ignition interlock device in compliance  
 14 with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2. The ignition  
 15 interlock device shall remain installed and operative on his vehicle during the  
 16 first twelve-month period of suspension of his driver's license following the date  
 17 of conviction.

18 B. Nothing in this Section shall prohibit a court from sentencing an  
 19 offender to serve any portion of the sentence under home incarceration  
 20 pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of  
 21 imprisonment if otherwise allowed under the provisions of Code of Criminal  
 22 Procedure Article 894.2 and R.S. 14:98.5(B).

23 C. An offender may apply for a restricted driver's license to be in effect  
 24 during the entire period of suspension upon proof to the Department of Public  
 25 Safety and Corrections that his motor vehicle has been equipped with a  
 26 functioning ignition interlock device in compliance with the requirements of  
 27 R.S. 32:378.2.

28 ~~§98.2. Unlawful refusal to submit to chemical tests; arrests for driving while~~  
 29 ~~intoxicated~~ Operating while intoxicated, second offense; penalties

30 ~~A. No person under arrest for a violation of R.S. 14:98, 98.1, or any other law~~

1 ~~or ordinance which prohibits operating a vehicle while intoxicated may refuse to~~  
2 ~~submit to a chemical test when requested to do so by a law enforcement officer if he~~  
3 ~~has refused to submit to such test on two previous and separate occasions of any~~  
4 ~~previous such violation.~~

5 ~~B.(1) Whoever violates the provisions of this Section shall be fined not less~~  
6 ~~than three hundred dollars nor more than one thousand dollars, and shall be~~  
7 ~~imprisoned for not less than ten days nor more than six months.~~

8 ~~(2) Imposition or execution of sentence shall not be suspended unless one of~~  
9 ~~the following circumstances occurs:~~

10 ~~(a) The offender is placed on probation with a minimum condition that he~~  
11 ~~serve two days in jail and participate in a court-approved substance abuse program~~  
12 ~~and participate in a court-approved driver improvement program.~~

13 ~~(b) The offender is placed on probation with a minimum condition that he~~  
14 ~~perform four eight-hour days of court-approved community service activities, at least~~  
15 ~~half of which shall consist of participation in a litter abatement or collection~~  
16 ~~program, participate in a court-approved substance abuse program, and participate~~  
17 ~~in a court-approved driver improvement program. An offender who participates in~~  
18 ~~a litter abatement or collection program pursuant to this Subparagraph shall have no~~  
19 ~~cause of action for damages against the entity conducting the program or supervising~~  
20 ~~his participation therein, including a municipality, parish, sheriff, or other entity, nor~~  
21 ~~against any official, employee, or agent of such entity, for any injury or loss suffered~~  
22 ~~by him during or arising out of his participation in the program, if such injury or loss~~  
23 ~~is a direct result of the lack of supervision or act or omission of the supervisor, unless~~  
24 ~~the injury or loss was caused by the intentional or grossly negligent act or omission~~  
25 ~~of the entity or its official, employee, or agent.~~

26 **A.(1) Except as modified by the provisions of Paragraphs (2), (3), and (4)**  
27 **of this Subsection, or as provided by Subsection D of this Section, on a**  
28 **conviction of a second offense violation of R.S. 14:98, regardless of whether the**  
29 **second offense occurred before or after the first conviction, the offender shall**  
30 **be fined not less than seven hundred fifty dollars nor more than one thousand**

1 dollars, and shall be imprisoned for not less than thirty days nor more than six  
2 months. At least forty-eight hours of the sentence imposed shall be served  
3 without benefit of parole, probation, or suspension of sentence. Imposition or  
4 execution of the remainder of sentence shall not be suspended unless the  
5 offender is placed on probation with the minimum conditions that he complete  
6 all of the following:

7 (a) Serve at least fifteen days in jail, without benefit of parole, probation,  
8 or suspension of sentence, or in lieu thereof, perform two hundred forty hours  
9 of court-approved community service activities, at least half of which shall  
10 consist of participation in a litter abatement or collection program. If  
11 imprisonment is imposed under this Subparagraph, the sentence is to be served  
12 in addition to the sentence of imprisonment imposed pursuant to Paragraph (1)  
13 of this Subsection, provided that the total period of imprisonment upon  
14 conviction of the offense, including imprisonment for default in payment of a  
15 fine or costs, shall not exceed six months.

16 (b) Participate in a court-approved substance abuse program, which may  
17 include an assessment by a licensed clinician to determine if the offender has a  
18 diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the  
19 court from modifying the portions of the program as may be applicable and  
20 appropriate to an individual offender as shown by the assessment.

21 (c) Participate in a court-approved driver improvement program.

22 (d) Except as the period of time may be increased in accordance with  
23 Subparagraph (3)(c) of this Subsection, the court shall order that the offender  
24 not operate a motor vehicle during the period of probation unless any vehicle,  
25 while being operated by the offender, is equipped with a functioning ignition  
26 interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S.  
27 15:306, and R.S. 32:378.2, which requirement shall remain in effect for a period  
28 of not less than six months from the date of conviction. In addition, the device  
29 shall remain installed and operative during any period that the offender's  
30 driver's license is suspended under law and for any additional period as

1 determined by the court.

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

7 (3)(a) If the offender had a blood alcohol concentration of 0.20 percent  
8 or more by weight based on grams of alcohol per one hundred cubic centimeters  
9 of blood, the offender shall be fined one thousand dollars and at least ninety-six  
10 hours of the sentence imposed pursuant to Paragraph (1) of this Subsection  
11 shall be served without the benefit of parole, probation, or suspension of  
12 sentence.

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

18 (c) The court shall require that the offender not operate a motor vehicle  
19 during the period of probation unless any vehicle, while being operated by the  
20 offender, is equipped with a functioning ignition interlock device in compliance  
21 with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2. The  
22 ignition interlock device shall remain installed and operative on his vehicle  
23 during the first three years of the four-year period of the suspension of his  
24 driver's license.

25 (4) If the arrest for the second offense occurs within one year of the  
26 commission of the first offense, at least thirty days of the sentence imposed  
27 pursuant to Paragraph (1) of this Subsection shall be served without benefit of  
28 parole, probation, or suspension of sentence. In addition, if the offender had a  
29 blood alcohol concentration of 0.20 percent or more by weight based on grams  
30 of alcohol per one hundred cubic centimeters of blood, he shall be fined one



1 thousand dollars and also be subject to the provisions of Subparagraphs (3)(b)  
2 and (c) of this Subsection.

3 B. Nothing in this Section shall prohibit a court from sentencing an  
4 offender to serve any portion of the sentence under home incarceration  
5 pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of  
6 imprisonment if otherwise allowed under the provisions of Code of Criminal  
7 Procedure Article 894.2 and R.S. 14:98.5(B).

8 C. An offender may apply for a restricted driver's license to be in effect  
9 during the entire period of suspension upon proof to the Department of Public  
10 Safety and Corrections that his motor vehicle has been equipped with a  
11 functioning ignition interlock device in compliance with the requirements of  
12 R.S. 32:378.2.

13 D. Notwithstanding any other provision of law to the contrary, on a  
14 conviction of a second offense violation of R.S. 14:98, and regardless of whether  
15 the second offense occurred before or after the first conviction, when the first  
16 offense was for the crime of vehicular homicide in violation of R.S. 14:32.1,  
17 third degree feticide in violation of R.S. 14:32.8, or first degree vehicular  
18 negligent injuring in violation of R.S. 14:39.2, the offender shall be fined two  
19 thousand dollars and imprisoned, with or without hard labor, for not less than  
20 one year nor more than five years. At least six months of the sentence of  
21 imprisonment imposed shall be without benefit of parole, probation, or  
22 suspension of sentence except in compliance with R.S. 14:98.5(B)(1), the  
23 mandatory minimum sentence cannot be served on home incarceration.

24 (1) Imposition or execution of the remainder of the sentence shall not be  
25 suspended unless the offender is placed on probation with the minimum  
26 conditions that he complete all of the following:

27 (a) Perform two hundred forty hours of court-approved community  
28 service activities, at least one-half of which shall consist of participation in a  
29 litter abatement or collection program.

30 (b) Participate in a court-approved substance abuse program, which may

1 include an assessment by a licensed clinician to determine if the offender has a  
 2 diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the  
 3 court from modifying the portions of the program as may be applicable and  
 4 appropriate to an individual offender as shown by the assessment.

5 (c) Participate in a court-approved driver improvement program.

6 (2) In accordance with the provisions of R.S. 14:98.5(B), any offender  
 7 placed on probation pursuant to the provisions of this Subsection shall be  
 8 placed in a home incarceration program approved by the division of probation  
 9 and parole for a period of time not less than six months and not more than the  
 10 remainder of the sentence of imprisonment.

11 (3) Except as the period of time may be increased in accordance with  
 12 Subparagraph (A)(3)(b) and (c) of this Section, in addition to any penalties  
 13 imposed under this Section, the court shall order that the offender not operate  
 14 a motor vehicle during the period of probation unless any vehicle, while being  
 15 operated by the offender, is equipped with a functioning ignition interlock  
 16 device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and  
 17 R.S. 32:378.2, which requirement shall remain in effect for a period of not less  
 18 than six months from the date of conviction. In addition, the device shall  
 19 remain installed and operative during any period that the offender's driver's  
 20 license is suspended under law and for any additional period as determined by  
 21 the court.

22 ~~§98.3. Operating a vehicle while under suspension for certain prior offenses~~

23 Operating while intoxicated, third offense; penalties

24 ~~A. It is unlawful to operate a motor vehicle on a public highway where the~~  
 25 ~~operator's driving privileges have been suspended under the authority of R.S.~~  
 26 ~~32:414(A)(1), (B)(1) or (2), (D)(1)(a), or 667. It shall not be a violation of the~~  
 27 ~~provisions of this Section when a person operates a motor vehicle to obtain~~  
 28 ~~emergency medical care for himself or any other person.~~

29 ~~B. Whoever violates the provisions of this Section shall be imprisoned for not~~  
 30 ~~less than fifteen days nor more than six months without benefit of suspension of~~

1 ~~imposition or execution of sentence, except as provided in Subsection C.~~

2 ~~C. When the operator's driving privileges were suspended for manslaughter,~~  
3 ~~vehicular homicide, or negligent homicide, the offender shall be imprisoned for not~~  
4 ~~less than sixty days nor more than six months without benefit of suspension of~~  
5 ~~imposition or execution of sentence.~~

6 **A.(1) Except as provided in Subsection B of this Section, on a conviction**  
7 **of a third offense violation of R.S. 14:98, regardless of whether the third offense**  
8 **occurred before or after a previous conviction, the offender shall be fined two**  
9 **thousand dollars and shall be imprisoned, with or without hard labor, for not**  
10 **less than one year nor more than five years. Except as provided in Paragraph**  
11 **(2) of this Subsection, at least one year of the sentence imposed shall be served**  
12 **without benefit of parole, probation, or suspension of sentence. Except in**  
13 **compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot**  
14 **be served on home incarceration.**

15 **(2) The one-year period described in Paragraph (1) of this Subsection,**  
16 **which shall otherwise be imposed without the benefit of parole, probation, or**  
17 **suspension of sentence, may be suspended if the offender is accepted into a drug**  
18 **division probation program pursuant to R.S. 13:5301 et seq. The provisions of**  
19 **R.S. 14:98(F) relative to vehicle seizure and sale shall also be applicable to any**  
20 **offender whose sentence is served with the benefit of parole, probation, or**  
21 **suspension of sentence pursuant to the provisions of this Paragraph.**

22 **(3)(a) The court, in its discretion, may suspend all or any part of the**  
23 **remainder of the sentence of imprisonment imposed pursuant to Paragraph (1)**  
24 **of this Subsection. If any of the remainder of the sentence is suspended, the**  
25 **offender shall be placed on supervised probation with the Department of Public**  
26 **Safety and Corrections, division of probation and parole, for not more than a**  
27 **period of five years but not less than a period of time equal to the remainder of**  
28 **the sentence of imprisonment, which probation shall commence on the day after**  
29 **the offender's release from imprisonment after serving the mandatory sentence**  
30 **required by this Section, unless the offender was released by diminution of**

1 sentence for good behavior pursuant to R.S. 15:571.3, in which case the  
2 probation shall commence simultaneously with the period of supervision  
3 provided by R.S. 15:571.5 and shall run concurrently therewith. The offender  
4 must comply with both the conditions of his release as set by the committee on  
5 parole in accordance with R.S. 15:571.5 and with the conditions of probation set  
6 by the sentencing court.

7 (b) Any offender placed on probation pursuant to this Paragraph shall  
8 be required as a condition of probation to participate in two hundred forty  
9 hours of court-approved community service activities, obtain employment,  
10 participate in a court-approved driver improvement program at his expense,  
11 and submit to and complete either of the following requirements:

12 (i) Immediately undergo an evaluation by the Department of Health and  
13 Hospitals, office of behavioral health, to determine the nature and extent of the  
14 offender's substance abuse disorder and to participate in any treatment plan  
15 recommended by the office of behavioral health, including treatment in an  
16 inpatient facility approved by the office for a period of not less than four weeks,  
17 followed by outpatient treatment services for a period not to exceed twelve  
18 months.

19 (ii) Participate in substance abuse treatment in an alcohol and drug  
20 abuse program provided by a drug division subject to the applicable provisions  
21 of R.S. 13:5301 et seq. if the offender is otherwise eligible to participate in such  
22 program.

23 (c) In addition to the requirements set forth in Subparagraphs (a) and  
24 (b) of this Paragraph, any offender placed on probation pursuant to the  
25 provisions of this Subsection shall be placed in a home incarceration program  
26 approved by the division of probation and parole for a period of time not less  
27 than six months and not more than the remainder of the sentence of  
28 imprisonment. The terms of home incarceration shall be in compliance with the  
29 provisions of R.S. 14:98.5(B) and Code of Criminal Procedure Article 894.2.

30 (d)(i) Notwithstanding any law to the contrary and the provisions of R.S.

1           32:414(D)(1)(b), upon conviction of a third offense violation of R.S. 14:98, any  
2           motor vehicle, while being operated by the offender, shall be equipped with a  
3           functioning ignition interlock device in accordance with the provisions of R.S.  
4           15:306. The ignition interlock device shall remain installed and operative until  
5           the offender has completed the requirements of substance abuse treatment and  
6           home incarceration, or, if applicable, the requirements of the drug division  
7           probation program provided in R.S. 13:5301 et seq.

8           (ii) Notwithstanding any provision of law to the contrary, any offender  
9           convicted of a third offense violation of R.S. 14:98 shall, after one year of the  
10           suspension required by R.S. 32:414(D)(1)(a), upon proof to the Department of  
11           Public Safety and Corrections that the motor vehicles being operated by the  
12           offender are equipped with functioning ignition interlock devices, be issued a  
13           restricted driver's license. The restricted license shall be effective for the period  
14           of time that the offender's driver's license is suspended. The restricted license  
15           shall entitle the offender to operate the vehicles equipped with a functioning  
16           ignition interlock device in order to earn a livelihood and to travel to and from  
17           the places designated in R.S. 14:98.5(B)(3)(e).

18           (e) If an offender placed on probation pursuant to the provisions of this  
19           Paragraph fails to complete the substance abuse treatment required by this  
20           Subsection or violates any other condition of probation, including conditions of  
21           home incarceration, his probation may be revoked, and he may be ordered to  
22           serve the balance of the sentence of imprisonment, without credit for time  
23           served under home incarceration.

24           B.(1) If the offender has previously received the benefit of parole,  
25           probation, or suspension of sentence on a conviction of a third or subsequent  
26           offense violation of R.S. 14:98, or if the offender has previously participated in  
27           a drug division probation program pursuant to R.S. 13:5301 et seq., pursuant  
28           to a sentence imposed on a conviction of a third or subsequent offense violation  
29           of R.S. 14:98, or if the offender has previously been required to participate in  
30           substance abuse treatment or home incarceration pursuant to a sentence

1 imposed on a conviction of a third or subsequent offense violation of R.S. 14:98,  
2 then on a conviction of a subsequent third offense violation of R.S. 14:98,  
3 notwithstanding any other provision of law to the contrary and regardless of  
4 whether the offense occurred before or after an earlier conviction, the offender  
5 shall be fined two thousand dollars and imprisoned, with or without hard labor,  
6 for not less than two nor more than five years. At least two years of the  
7 sentence imposed shall be served without benefit of parole, probation, or  
8 suspension of sentence. Except in compliance with R.S. 14:98.5(B)(1), the  
9 mandatory minimum sentence cannot be served on home incarceration.

10 (2) Except where inconsistent with the provisions of this Subsection, the  
11 conditions of probation shall include but not be limited to the conditions of  
12 probation provided by Paragraph (A)(3) of this Section, except that the offender  
13 shall not be sentenced to substance abuse treatment provided for by Items  
14 (A)(3)(b)(i) and (ii) of this Section. Nothing in this Section shall prohibit the  
15 court from ordering substance abuse treatment if it determines that the  
16 offender is able to pay for the substance abuse treatment.

17 C. In addition to any other penalty, the court shall order, upon motion  
18 of the prosecuting district attorney, that the vehicle being operated by the  
19 offender at the time of the offense be seized and impounded, and sold at auction  
20 in accordance with the provisions of R.S. 14:98(F).

21 **§98.4. Operating while intoxicated, fourth offense; penalties**

22 A.(1) Except as modified by Subparagraphs (a) and (b) of this  
23 Paragraph, or as provided by Subsections B and C of this Section, on a  
24 conviction of a fourth or subsequent offense violation of R.S. 14:98, regardless  
25 of whether the fourth offense occurred before or after an earlier conviction, the  
26 offender shall be fined five thousand dollars and imprisoned, with or without  
27 hard labor, for not less than ten years nor more than thirty years. Two years  
28 of the sentence of imprisonment shall be imposed without benefit of parole,  
29 probation, or suspension of sentence. Except in compliance with R.S.  
30 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home

1           **incarceration.**

2                   **(a) Except as prohibited by Subparagraph (b) of this Paragraph, the two-**  
3 **year period, which shall otherwise be imposed without benefit of parole,**  
4 **probation, or suspension of sentence, may be suspended if the offender is**  
5 **accepted into a drug division probation program pursuant to R.S. 13:5301 et**  
6 **seq. The provisions of R.S. 14:98(F) relative to vehicle seizure and sale shall**  
7 **also be applicable to any offender whose sentence is served with the benefit of**  
8 **parole, probation, or suspension of sentence pursuant to the provisions of this**  
9 **Paragraph.**

10                   **(b) If the offender has previously participated in a drug division**  
11 **probation program pursuant to R.S. 13:5301 et seq., pursuant to a sentence**  
12 **imposed on a third or subsequent offense conviction under R.S. 14:98, three**  
13 **years of the sentence imposed in this Paragraph shall be imposed without**  
14 **benefit of parole, probation, or suspension of sentence. Notwithstanding any**  
15 **other law to the contrary, the offender shall not be eligible to have the**  
16 **mandatory portion of his sentence suspended because of his participation in a**  
17 **drug division program under Item (2)(b)(ii) of this Subsection.**

18                   **(2)(a) The court, in its discretion, may suspend all or any part of the**  
19 **remainder of the sentence of imprisonment. If any of the sentence is suspended,**  
20 **the offender shall be placed on supervised probation with the Department of**  
21 **Public Safety and Corrections, division of probation and parole, for a period of**  
22 **five years, which probation shall commence on the day after the offender's**  
23 **release from imprisonment after serving the mandatory sentence required by**  
24 **this Section, unless the offender was released by diminution of sentence for good**  
25 **behavior pursuant to R.S. 15:571.3, in which case the probation shall commence**  
26 **simultaneously with the period of supervision provided by R.S. 15:571.5 and**  
27 **shall run concurrently therewith. The offender must comply with both the**  
28 **conditions of his release as set by the committee on parole in accordance with**  
29 **R.S. 15:571.5 and with the conditions of probation set by the sentencing court.**

30                   **(b) Any offender placed on probation pursuant to this Paragraph shall**

1 be required as a condition of probation to participate in three hundred twenty  
2 hours of court-approved community service activities, obtain employment,  
3 participate in a court-approved driver improvement program at his expense,  
4 and submit to and complete either of the following requirements:

5 (i) Immediately undergo an evaluation by the Department of Health and  
6 Hospitals, office of behavioral health, to determine the nature and extent of the  
7 offender's substance abuse disorder, and participate in any treatment plan  
8 recommended by the office of behavioral health, including treatment in an  
9 inpatient facility approved by the office for a period of not less than four weeks  
10 followed by outpatient treatment services for a period not to exceed twelve  
11 months.

12 (ii) Except as provided in Subparagraph (1)(b) of this Subsection,  
13 participate in substance abuse treatment in an alcohol and drug abuse program  
14 provided by a drug division subject to the applicable provisions of R.S. 13:5301  
15 et seq. if the offender is otherwise eligible to participate in such program.

16 (c) In addition to the requirements set forth in Subparagraphs (a) and  
17 (b) of this Paragraph, any offender placed on probation pursuant to the  
18 provisions of this Subsection shall be placed in a home incarceration program  
19 approved by the division of probation and parole for the remainder of the term  
20 of supervised probation. The terms of home incarceration shall be in  
21 compliance with the provisions of R.S. 14:98.5(B) and Code of Criminal  
22 Procedure Article 894.2.

23 (d)(i) Notwithstanding any law to the contrary and the provisions of R.S.  
24 32:414(D)(1)(b), upon conviction of a fourth or subsequent offense, any motor  
25 vehicle, while being operated by the offender, shall be equipped with a  
26 functioning ignition interlock device in accordance with the provisions of R.S.  
27 15:306. The ignition interlock device shall remain installed and operative until  
28 the offender has completed the requirements of substance abuse treatment and  
29 home incarceration or, if applicable, the requirements of the drug division  
30 probation program provided for in R.S. 13:5301 et seq.



1           (ii) Any offender convicted of a fourth or subsequent offense shall, after  
2 one year of the suspension required by R.S. 32:414(D)(1)(a), upon proof to the  
3 Department of Public Safety and Corrections that the motor vehicles being  
4 operated by the offender are equipped with functioning ignition interlock  
5 devices, be issued a restricted driver's license. The restricted license shall be  
6 effective for the period of time that the offender's driver's license is suspended.  
7 The restricted license shall entitle the offender to operate the vehicles equipped  
8 with a functioning ignition interlock device in order to earn a livelihood and to  
9 travel to and from the places designated in R.S. 14:98.5(B)(3)(e).

10           (e) If an offender placed on probation pursuant to the provisions of this  
11 Paragraph fails to complete the substance abuse treatment required by this  
12 Subsection or violates any other condition of probation, including conditions of  
13 home incarceration, his probation may be revoked, and he may be ordered to  
14 serve the balance of the sentence of imprisonment, without credit for time  
15 served under home incarceration.

16           B.(1) If the offender has previously been required to participate in  
17 substance abuse treatment or home incarceration pursuant to a sentence  
18 imposed on a conviction of a third offense violation of R.S. 14:98, then on a  
19 conviction of a fourth or subsequent offense, notwithstanding any other  
20 provision of law to the contrary and regardless of whether the fourth offense  
21 occurred before or after an earlier conviction, the offender shall be fined five  
22 thousand dollars and imprisoned at hard labor for not less than ten nor more  
23 than thirty years, at least three years of which shall be imposed without benefit  
24 of parole, probation, or suspension of sentence. Notwithstanding any provision  
25 of law to the contrary, the offender shall not be eligible to have the mandatory  
26 portion of his sentence suspended because of his participation in a drug division  
27 program under Item (A)(2)(b)(ii) of this Section, and except in compliance with  
28 R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home  
29 incarceration.

30           (2) After serving the mandatory sentence, if any of the remainder of the

1 sentence is suspended, the offender shall be placed on supervised probation with  
2 the Department of Public Safety and Corrections, division of probation and  
3 parole, for a period of five years, which probation shall commence on the day  
4 after the offender's release from imprisonment after serving the mandatory  
5 sentence required by this Section, unless the offender was released by  
6 diminution of sentence for good behavior pursuant to R.S. 15:571.3, in which  
7 case the probation shall commence simultaneously with the period of  
8 supervision provided by R.S. 15:571.5 and shall run concurrently therewith.  
9 The offender shall comply with both the conditions of his release as set by the  
10 parole board in accordance with R.S. 15:571.5 and with the conditions of  
11 probation set by the sentencing court.

12 (3) Except where inconsistent with the provisions of this Subsection, the  
13 conditions of probation shall include but not be limited to the conditions of  
14 probation provided by Paragraph (A)(2) of this Section, but the offender shall  
15 not be sentenced to substance abuse treatment provided for by Items  
16 (A)(2)(b)(i) and (ii) of this Section. Nothing in this Section shall prohibit the  
17 court from ordering substance abuse treatment if it determines that the  
18 offender is able to pay for the substance abuse treatment.

19 C. If the offender has previously received the benefit of parole,  
20 probation, or suspension of sentence on a conviction of a fourth or subsequent  
21 offense violation of R.S. 14:98, then on a subsequent conviction of a fourth or  
22 subsequent offense, notwithstanding any other provision of law to the contrary  
23 and regardless of whether the offense occurred before or after an earlier  
24 conviction, the offender shall be fined five thousand dollars and imprisoned at  
25 hard labor for not less than ten nor more than thirty years. No part of the  
26 sentence shall be imposed with benefit of parole, probation, or suspension of  
27 sentence, and no portion of the sentence shall be imposed concurrently with the  
28 remaining balance of any sentence to be served for a prior conviction for any  
29 offense.

30 D. In addition to any other penalty, the court shall order, upon motion

1 of the prosecuting district attorney, that the vehicle being operated by the  
2 offender at the time of the offense be seized and impounded, and sold at auction  
3 in accordance with the provisions of R.S. 14:98(F).

4 §98.5. Special provisions and definitions

5 A. Substance abuse programs. (1) An offender ordered to participate in  
6 a substance abuse program, home incarceration, or a driver improvement  
7 program in accordance with the penalty provisions of R.S. 14:98, 98.1, 98.2,  
8 98.3, and 98.4 shall pay the cost incurred in participating in the program.  
9 Failure to make such payment shall subject the offender to revocation of  
10 probation, unless the court determines that the offender is unable to pay.

11 (2) On a conviction of a third or subsequent offense violation of R.S.  
12 14:98, if the court determines that the offender is unable to pay, the state shall  
13 pay for the cost of the substance abuse treatment. If the court determines that  
14 an offender is unable to pay the costs incurred for participating in a substance  
15 abuse treatment program, driver improvement program, or home  
16 incarceration, the court may, upon completion of such program or home  
17 incarceration, require that the offender reimburse the state for all or a portion  
18 of such costs pursuant to a payment schedule determined by the court. This  
19 Paragraph shall not apply to substance abuse treatment imposed as a condition  
20 of probation under R.S. 14:98.3(B)(2) or R.S. 14:98.4(B)(3).

21 B. Home incarceration. (1) For felony violations of R.S. 14:98, the  
22 mandatory minimum sentence imposed by the court shall not be served on  
23 home incarceration unless either:

24 (a) The Department of Public Safety and Corrections, through the  
25 division of probation and parole, recommends home incarceration of the  
26 defendant and specific conditions of that home incarceration.

27 (b) The district attorney recommends home incarceration.

28 (2) Except as provided by Paragraph (4) of this Subsection and unless  
29 otherwise authorized or prohibited, on a misdemeanor violation of R.S. 14:98  
30 or on a felony violation of R.S. 14:98 after the offender has served the

1 mandatory minimum sentence, the court may sentence the offender to home  
2 incarceration.

3 (3) Except as modified by Paragraph (5) of this Subsection, when the  
4 court sentences an offender to home incarceration, the offender shall be subject  
5 to special conditions to be determined by the court, which shall include but not  
6 be limited to the following:

7 (a) Electronic monitoring. However, nothing in this Section shall prohibit  
8 a court from ordering nonelectronic monitored home incarceration as a  
9 condition of probation for a first or second conviction where the period of home  
10 incarceration is less than five days.

11 (b) Curfew restrictions.

12 (c) The court shall require the offender to obtain employment.

13 (d) The court shall require the offender to participate in a court-  
14 approved driver improvement program, if not already a condition of his  
15 probation.

16 (e) The activities of the offender outside of his home shall be limited to  
17 traveling to and from work, church services or other religious services,  
18 Alcoholics Anonymous meetings, Narcotics Anonymous meetings, other secular-  
19 based addiction recovery group meetings, accredited educational institutions,  
20 meetings with his probation or parole officer, court-ordered community service  
21 activities, court-ordered substance abuse treatments, and a court-approved  
22 driver improvement program.

23 (f) Except as inconsistent with the provisions of this Subsection, an  
24 offender sentenced to home incarceration shall be subject to all other applicable  
25 provisions of Code of Criminal Procedure Article 894.2.

26 (4) An offender who has been convicted of any second violation of any  
27 state or local law or ordinance prohibiting operating a vehicle while intoxicated,  
28 committed within five years of the commission of any prior operating while  
29 intoxicated violation, shall not be eligible for home incarceration until the  
30 offender has first served a minimum of forty-eight consecutive hours of

1           imprisonment.

2                   (5) When the offender is on probation for a third or subsequent offense,  
3                   or on a second offense under R.S. 14:98.2(D), a home visitation shall be  
4                   conducted at least once per month by the Department of Public Safety and  
5                   Corrections for the first six months. After the first six months, the level of  
6                   supervision shall be determined by the department based upon a risk  
7                   assessment instrument.

8                   C. Ignition interlock devices. (1) No offender who is ordered to install an  
9                   ignition interlock device as a condition of probation shall:

10                   (a) Fail to comply with all applicable provisions of R.S. 15:306 and 307  
11                   and R.S. 32:378.2 and 414(D)(1)(b).

12                   (b) Violate the conditions of his restricted driver's license as set by the  
13                   Department of Public Safety and Corrections.

14                   (c) Operate, rent, lease, or borrow a motor vehicle unless that vehicle is  
15                   equipped with a functioning ignition interlock device.

16                   (d) Request or solicit any other person to blow into an ignition interlock  
17                   device or to start a motor vehicle equipped with the device for the purpose of  
18                   providing the offender with an operable motor vehicle.

19                   (2) If the court imposes the use of an ignition interlock device as a  
20                   condition of probation, the offender shall provide proof of compliance to the  
21                   court or the probation officer within thirty days. If the offender fails to provide  
22                   proof of installation within that period, absent a finding by the court of good  
23                   cause for the failure that is entered into the court record, the court shall revoke  
24                   the offender's probation.

25                   (3) The provisions of this Subsection shall not require installation of an  
26                   ignition interlock device in any vehicle described in R.S. 32:378.2(I).

27                   D.(1) "Community service activities" as used in this Section and R.S.  
28                   14:98.1, 98.2, 98.3, and 98.4, in addition to participation in a litter abatement or  
29                   collection program, may include duty in any morgue, coroner's office, or  
30                   emergency treatment room of a state-operated hospital or other state-operated

1 emergency treatment facility, with the consent of the administrator of the  
2 morgue, coroner's office, hospital, or facility.

3 (2) An offender who participates in a litter abatement or collection  
4 program pursuant to this Subsection shall have no cause of action for damages  
5 against the entity conducting the program or supervising the offender's  
6 participation therein, including a municipality, parish, sheriff, or other entity,  
7 nor against any official, employee, or agent of such entity, for any injury or loss  
8 suffered by him during or arising out of his participation therein, if such injury  
9 or loss is a direct result of the lack of supervision or act or omission of the  
10 supervisor, unless the injury or loss was caused by the intentional or grossly  
11 negligent act or omission of the entity or its official, employee, or agent.

12 §98.6. Underage operating while intoxicated

13 A. The crime of underage operating a vehicle while intoxicated is the  
14 operating of any motor vehicle, aircraft, watercraft, vessel, or other means of  
15 conveyance when the operator's blood alcohol concentration is 0.02 percent or  
16 more by weight based on grams of alcohol per one hundred cubic centimeters  
17 of blood, if the operator is under the age of twenty-one.

18 B. Any underage person whose blood alcohol concentration is found to  
19 be in violation of R.S. 14:98(A)(1)(b) shall be charged under the provisions of  
20 that Subparagraph rather than under this Section.

21 C.(1) On a first conviction, the offender shall be fined not less than one  
22 hundred dollars nor more than two hundred fifty dollars, and imprisoned for  
23 not less than ten days nor more than three months. Imposition or execution of  
24 sentence shall not be suspended unless the offender is placed on probation with  
25 the minimum conditions that he:

26 (a) Perform thirty-two hours of court-approved community service  
27 activities, at least half of which shall consist of participation in a litter  
28 abatement or collection program.

29 (b) Participate in a court-approved substance abuse and driver  
30 improvement program.

1           (2) On a second or subsequent conviction, regardless of whether the  
2           second offense occurred before or after the first conviction, the offender shall  
3           be fined not less than two hundred fifty dollars nor more than five hundred  
4           dollars, and imprisoned for not less than thirty days nor more than six months.  
5           Imposition or execution of sentence under this Paragraph shall not be  
6           suspended unless the offender is placed on probation with the minimum  
7           conditions that he:

8           (a) Serve forty-eight hours in jail without benefit of parole, probation,  
9           or suspension of sentence, or in lieu thereof, perform no less than eighty hours  
10           of court-approved community service activities, at least half of which shall  
11           consist of participation in a litter abatement or collection program.

12           (b) Participate in a court-approved substance abuse program.

13           (c) Participate in a court-approved driver improvement program.

14           (3) Nothing in this Section shall prohibit a court from sentencing an  
15           offender to serve any portion of the sentence under home incarceration either  
16           in lieu of, or in addition to, a term of imprisonment if otherwise allowed under  
17           the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

18           (4) The court may require that the offender not operate a motor vehicle  
19           during the period of probation unless any vehicle, while being operated by the  
20           offender, is equipped with a functioning ignition interlock device in accordance  
21           with R.S. 14:98.5(C).

22           D. Court programs regarding substance abuse as provided for by  
23           Subsection C of this Section shall include a screening procedure to determine  
24           the portions of the program that may be applicable and appropriate for  
25           individual offenders.

26           §98.7. Unlawful refusal to submit to chemical tests; arrests for driving while  
27           intoxicated

28           A. No person under arrest for a violation of R.S. 14:98, 98.6, or any other  
29           law or ordinance that prohibits operating a vehicle while intoxicated may refuse  
30           to submit to a chemical test when requested to do so by a law enforcement

1 officer if he has refused to submit to such test on two previous and separate  
2 occasions of any such violation.

3 B.(1) Whoever violates the provisions of this Section shall be fined not  
4 less than three hundred dollars nor more than one thousand dollars, and shall  
5 be imprisoned for not less than ten days nor more than six months.

6 (2) Imposition or execution of sentence shall not be suspended unless one  
7 of the following occurs:

8 (a) The offender is placed on probation with the minimum conditions  
9 that he serve two days in jail and participate in a court-approved substance  
10 abuse program and participate in a court-approved driver improvement  
11 program.

12 (b) The offender is placed on probation with the minimum conditions  
13 that he perform thirty-two hours of court-approved community service  
14 activities, at least half of which shall consist of participation in a litter  
15 abatement or collection program, participate in a court-approved substance  
16 abuse program, and participate in a court-approved driver improvement  
17 program. An offender who participates in a litter abatement or collection  
18 program pursuant to this Subparagraph shall have no cause of action for  
19 damages against the entity conducting the program or supervising his  
20 participation therein, as provided by R.S. 14:98.5(D).

21 §98.8. Operating a vehicle while under suspension for certain prior offenses

22 A. It is unlawful to operate a motor vehicle on a public highway where  
23 the operator's driving privileges have been suspended under the authority of  
24 R.S. 32:414(A)(1), (B)(1) or (2), (D)(1)(a), or R.S. 32:667. It shall not be a  
25 violation of the provisions of this Section when a person operates a motor  
26 vehicle to obtain emergency medical care for himself or any other person.

27 B. Whoever violates the provisions of this Section shall be imprisoned for  
28 not less than fifteen days nor more than six months without benefit of  
29 suspension of imposition or execution of sentence, except as provided in  
30 Subsection C.



1                    C. When the operator's driving privileges were suspended for  
 2                    manslaughter, vehicular homicide, or negligent homicide, the offender shall be  
 3                    imprisoned for not less than sixty days nor more than six months without  
 4                    benefit of suspension of imposition or execution of sentence.

5                    Section 2. The provisions of this Act shall become effective on January 1, 2015.

\_\_\_\_\_  
 PRESIDENT OF THE SENATE

\_\_\_\_\_  
 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

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