

2016 Regular Session

HOUSE BILL NO. 844

BY REPRESENTATIVE JAMES

MTR VEHICLE/DRIVER LIC: Provides for an extension of driving privileges pending hearing by a court

1 AN ACT

2 To amend and reenact R.S. 32:668(C), relative to the suspension or revocation of certain
3 driving privileges; to allow for extension of driving privileges following an order by
4 the Department of Public Safety and Corrections suspending or revoking such
5 privileges and if the licensee takes certain actions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 32:668(C) is hereby amended and reenacted to read as follows:

8 §668. Procedure following revocation or denial of license; hearing; court review;
9 review of final order; restricted licenses

10 * * *

11 C.(1) After a person has exhausted his remedies with the department, he
12 shall have the right to file a petition in the appropriate court for a review of the final
13 order of suspension or denial by the Department of Public Safety and Corrections in
14 the same manner and under the same conditions as is provided in R.S. 32:414 in the
15 cases of suspension, revocation, and cancellation of licenses. The court in its review
16 of the final order of suspension or denial by the Department of Public Safety and
17 Corrections may exercise any action it deems necessary under the law including
18 ordering the department to grant the person restricted non-commercial driving
19 privileges where appropriate as provided in Subsection B of this Section.

1 (2) Upon filing a petition for review, the licensee shall serve the Department
 2 of Public Safety and Corrections with a copy of the petition and summons. Upon
 3 receipt of a copy of the petition for review, the department shall issue the licensee
 4 driving privileges, which shall be valid until the decision on the petition for review
 5 is final. The court on its own motion, or on the motion of either party, may modify
 6 or vacate such driving privileges upon a showing of good cause.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 844 Reengrossed

2016 Regular Session

James

Abstract: Provides for an extension of driving privileges following an order by the Dept. of Public Safety and Corrections suspending or revoking a person's driving privileges if the person takes certain actions.

Present law requires that upon suspension or denial of a license to drive due to impairment related offenses, the Dept. of Public Safety and Corrections shall immediately notify the person in writing and upon his request shall afford him an opportunity for a hearing.

Proposed law retains present law.

Present law provides that such hearing is limited to the following:

- (1) Whether a law enforcement officer had reasonable grounds to believe the person, regardless of age, had been driving or was in actual physical control of a motor vehicle upon the public highways of this state, or had been driving or was in actual physical control of a motor-powered watercraft upon the public navigable waterways of this state, while under the influence of either alcoholic beverages or any abused substance or controlled dangerous substance as set forth in present law (R.S. 40:964).
- (2) Whether the person was placed under arrest.
- (3) Whether he was advised by the officer as provided in present law (R.S. 32:661).
- (4) Whether he voluntarily submitted to an approved chemical test and whether the test resulted in a blood alcohol reading of 0.08% or above by weight, or of 0.02% or above if he was under the age of twenty-one years on the date of the test.
- (5) Whether he refused to submit to the test upon the request of the officer.
- (6) Such additional matters as may relate to the legal rights of the person, including compliance with regulations promulgated by the Dept. of Public Safety and Corrections and rights afforded to the person by law or jurisprudence.

Proposed law retains present law.

Present law provides that no law enforcement officer shall be compelled by the person requesting the hearing to appear or testify at such hearing and that there is a rebuttal

presumption that any inconsistencies in evidence submitted by Dept. of Public Safety and Corrections and admitted at the hearing shall be strictly construed in favor of the person regarding the revocation, suspension, or denial of license.

Proposed law retains present law.

Present law provides that after a person has exhausted his remedies with the Dept. of Public Safety and Corrections, he shall have the right to file a petition in the appropriate court for a review of the final order of suspension or denial.

Proposed law retains present law.

Present law provides that upon the Court's review of the final order of suspension or denial by the Dept. of Public Safety and Corrections, the court may exercise any action it deems necessary under the law including ordering the department to grant the person restricted driving privileges where appropriate.

Proposed law retains present law and authorizes the court to order the department to grant only restricted non-commercial driving privileges.

Proposed law provides that upon filing a petition for review, the licensee must serve the department with a copy of the petition and summons. Specifies that upon receipt of a copy of the petition for review, the department must issue the licensee driving privileges, which are valid until the decision on the petition for review is final. Authorizes the court, on its own motion, or on the motion of either party, to modify or vacate such driving privileges upon a showing of good cause.

(Amends R.S. 32:668(C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Clarify that the department issue the licensee driving privileges rather than a temporary license being issued pursuant to present law (R.S. 32:667(D)(1)).
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Remove references to disqualification of a license being subject to a court review.
2. Make technical changes.