

SENATE BILL NO. 47

BY SENATOR PERRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 13:1894.1, relative to the offense of operating a vehicle while intoxicated; to make technical corrections relative to the offense of operating a vehicle while intoxicated; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:1894.1 is hereby amended and reenacted to read as follows:

§1894.1. Driving while intoxicated, prosecutions for violation required to be filed under general state law; city and municipal courts, New Orleans excepted

A. Notwithstanding any other provision of law to the contrary, including the provisions of R.S. 13:1871, ~~on and after July 29, 1970,~~ prosecutions in any city, parish, or municipal court, the city, municipal and traffic courts of the city of New Orleans excepted, based on or arising out of the operation of a vehicle by a person while intoxicated may be charged and prosecuted under the provisions of R.S. 14:98 or under any applicable city, parish, or municipal ordinance ~~which~~ that incorporates the standards, elements, and sentences of the offense of driving while intoxicated contained in R.S. 14:98. Any conviction for a first or second offense or the entry of a plea of guilty and sentence based on such plea or the forfeiture of bail of any person having been charged with a first or second violation of R.S. 14:98 in any such city, parish, or municipal court shall be punishable in accordance with the provisions of ~~R.S. 14:98(B) or (C)~~ R.S. 14:98(D)(1) or (D)(2), whichever is applicable. Any conviction for a first or second offense or the entry of a plea of guilty and sentence based on such plea or the forfeiture of bail of any person having been charged with a first or second violation of the applicable city, parish, or municipal ordinance in any such city, parish, or municipal court shall be punishable in accordance with the

1 provisions of the ordinance and shall constitute a conviction under R.S. 14:98 for
2 purposes of determining the number of prior convictions in a proceeding under R.S.
3 14:98.

4 B. For purposes of this Section all city, parish, and municipal courts shall
5 have concurrent jurisdiction with the district courts over violations otherwise subject
6 to their jurisdiction provided for by R.S. 14:98, except in those cases wherein the
7 person or defendant is charged as a third or subsequent offender under the provisions
8 of ~~R.S. 14:98(D) and (E)~~ **R.S. 14:98(D)(3) or (D)(4), whichever is applicable**. If the
9 charge is for a third or subsequent offense, the prosecution shall be had only in the
10 district court and the defendant shall have the right to a trial by jury. However,
11 mayors' courts shall have no jurisdiction whatsoever over violations as provided for
12 by R.S. 14:98, nor to the trial of offenses against municipal ordinances relative to
13 prosecutions on charges of driving while intoxicated.

14 C.~~(1)~~ Notwithstanding the provisions of R.S. 13:1898 or any other law to the
15 contrary, ~~and except as provided in R.S. 13:1894.1(C)(2)~~, all fines, forfeitures, and
16 penalties, exclusive of costs, collected in city, parish, and municipal courts for
17 violations of R.S. 14:98 shall be paid into the city treasury or as otherwise provided
18 by law when the prosecution is filed under said Section for a violation occurring
19 within the territorial limits of the city or municipality; however, in the event a
20 violation of R.S. 14:98 is charged and such violation occurred within the territorial
21 limits of a municipality not having a city court, all said fines, forfeitures, and
22 penalties collected by the district court wherein said prosecution is actually brought
23 shall be distributed and disbursed by said court to the governing authority of the
24 municipality within whose boundaries said violation occurred. When such
25 prosecution is brought for a violation occurring outside of the territorial limits of said
26 city or municipality, then said collections shall be payable to the governing authority
27 of the parish or as otherwise provided by law; however, in the case of all such
28 charges filed in a parish court, said funds shall be payable to the parish or as
29 otherwise provided by law. All such charges filed under the provisions of this
30 Section shall be on affidavit and such charges shall be filed and prosecuted by the

1 city attorney or the city prosecutor when said charges are filed because of violations
 2 of any city, parish, or municipal ordinance occurring within the territorial limits of
 3 the city or municipality and by the district attorney or his representative when said
 4 charges are filed because of violations of R.S. 14:98 occurring in or outside of such
 5 territorial limits of the city or municipality.

6 ~~(2) Notwithstanding R.S. 13:1894.1(C)(1), the fines levied pursuant to R.S.~~
 7 ~~14:98(J) and collected in Caldwell, Catahoula, Concordia, Franklin, LaSalle, and~~
 8 ~~Tensas parishes shall be remitted to the Northeast Louisiana Substance Abuse~~
 9 ~~Center.~~

10 Section 2. This Act shall become effective upon signature by the governor or, if not
 11 signed by the governor, upon expiration of the time for bills to become law without signature
 12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 14 effective on the day following such approval.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____