

GREEN SHEET REDIGEST

HB 397

2019 Regular Session

Bagneris

**CRIMINAL/PENALTIES: Prohibits the suspension of a driver's license of a defendant who is financially unable to pay a criminal fine.**

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DIGEST

Present law (C.Cr.P. Art. 885.1) provides that when a fine is levied against a person convicted of any criminal offense, including any violation of the La. Highway Regulatory Act or any municipal or parish ordinance regulating traffic, and the defendant is granted an extension of time to pay the fine, the judge of the court having jurisdiction may order the driver's license to be surrendered to the sheriff or official of the court collecting fines for a period of time not to exceed 180 days. If, after expiration of 180 days, the defendant has not paid the fine, the sheriff or official of the court designated to collect fines shall forward the license to the Dept. of Public Safety and Corrections.

Act No. 260 of the 2017 R.S. amends present law to authorize the surrender of a defendant's driver's license only when the defendant is able but has willfully refused to pay the fine. Pursuant to Act No. 260 of the 2017 R.S. and Act No. 137 of the 2018 R.S., these changes to present law become effective Aug. 1, 2019.

Proposed law does all of the following:

- (1) Amends present law to provide that upon a showing by the defendant that he is financially unable to pay at the expiration of the extended period granted by the court under present law, the court shall grant the person an extension of time, not to exceed 180 days, in which to pay the fine, or offer the person, in lieu of paying the fine, the alternative of performing community service as set by the judge.
- (2) Amends present law to provide that if, at the expiration of the 180-day period granted by the judge, the judge determines that the defendant has either willfully not paid the fine or has not performed the community service, the judge may do either of the following:
  - (a) For certain present law vehicular offenses, order the person's driver's license to be surrendered to the sheriff or official of the court collecting fines.
  - (b) Grant the person an extension of time to either pay the fine or perform the community service.
- (3) Retains the present law provisions regarding the duties of the Dept. of Public Safety and Corrections, the sheriff, and the official of the court designated to collect fines.
- (4) Prohibits the court from suspending the driver's license of a defendant pursuant to present and proposed law, unless the court determines that the defendant is able but has willfully refused to pay the fine or perform community service.
- (5) Provides that the changes made to present law (C.Cr.P. Art. 885.1) by Act No. 260 of the 2017 R.S., as amended by Act Nos. 137 and 668 of the 2018 R.S., shall never go into effect and that the provisions of proposed law shall control.

(Adds C.Cr.P. Art. 885.1)

## Summary of Amendments Adopted by House

### The House Floor Amendments to the engrossed bill:

1. Provides that the court's authority to suspend the driver's license of the defendant or to grant an extension of time to pay the fine is dependent upon a showing by the defendant of his financial ability to pay.
2. Authorizes the court to grant a defendant who is financially unable to pay an extension of time to pay the fine or offer the defendant the alternative of performing community service.
3. At the expiration of the extended period of time to pay the fine or perform the community service, authorizes the judge to grant additional time or order the defendant's driver's license to be surrendered if the judge determines that the defendant has either willfully not paid the fine or has not performed the community service.
4. Amends the proposed law prohibition on the court's authority to suspend the driver's license of a defendant who is financially unable to pay, to prohibit suspension unless the court determines that the defendant is able but has willfully refused to pay the fine or perform community service.

## Summary of Amendments Adopted by Senate

### Committee Amendments Proposed by Senate Committee on Judiciary C to the reengrossed bill

1. Makes certain provisions of proposed law applicable only to certain present law vehicular offenses.