

Regular Session, 2010

SENATE BILL NO. 215

BY SENATOR MOUNT

DWI. Amends the penalty provisions for a third and fourth offense DWI. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:98(D)(1)(a) and (E)(1)(a) and (4)(b), relative to offenses
3 involving operating a vehicle while intoxicated; to provide with respect to the crime
4 of operating a vehicle while intoxicated; to amend the criminal penalties for such
5 crime; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:98(D)(1)(a) and(E)(1)(a) and (4)(b) are hereby amended and
8 reenacted to read as follows:

9 §98. Operating a vehicle while intoxicated

10 * * *

11 D.(1)(a) On a conviction of a third offense, notwithstanding any other
12 provision of law to the contrary and regardless of whether the offense occurred
13 before or after an earlier conviction, the offender shall be imprisoned with or without
14 hard labor for not less than one year nor more than five years and shall be fined two
15 thousand dollars. ~~Forty-five days~~ **one year** of the sentence of imprisonment shall be
16 imposed without benefit of probation, parole, or suspension of sentence. The court,
17 in its discretion, may suspend all or any part of the remainder of the sentence of

1 imprisonment. If any portion of the sentence is suspended, the offender shall be
2 placed on supervised probation with the Department of Public Safety and
3 Corrections, division of probation and parole, for a period of time equal to the
4 remainder of the sentence of imprisonment, which probation shall commence on the
5 day after the offender's release from custody.

6 * * *

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

20 * * *

21 (4)(a) * * *

22 (b) If the offender has previously received the benefit of suspension of
23 sentence, probation, or parole as a fourth offender, **in addition to the mandatory**
24 **three years which must be served**, no part of **the remainder of** the sentence may
25 be imposed with benefit of suspension of sentence, probation, or parole, and no
26 portion of the sentence shall be imposed concurrently with the remaining balance of
27 any sentence to be served for a prior conviction for any offense.

28 * * *

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. if
3 vetoed by the governor and subsequently approved by the legislature, this act shall become
4 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Michael Bell.

DIGEST

Present law provides that on a conviction of a third offense DWI, the offender will be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined \$2,000 and imprisoned for 45 days without benefit of probation, parole, or suspension of sentence. The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment.

Proposed law maintains present law and enhances the imprisonment sentence from 45 days to one year without benefit of probation, parole, or suspension of sentence.

Present law provides that on a conviction of a fourth or subsequent offense, the offender will be imprisoned with or without hard labor for not less than 10 years nor more than 30 years and shall be fined \$5,000 and imprisoned for 75 days without benefit of probation, parole, or suspension of sentence. The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment.

Proposed law maintains present law and enhances the imprisonment sentence from 75 days to three years without benefit of probation, parole, or suspension of sentence.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 98(D)(1)(a) and (E)(1)(a) and (4)(b))