

Regular Session, 2013
HOUSE BILL NO. 424

ACT No. 388

BY REPRESENTATIVE LOPINTO

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. 13:5304(O), R.S. 14:98(D)(1)(a), (E)(1)(a), and (K)(3)(a), R.S. 32:667(A)(2) and (3), (B)(introductory paragraph), (D)(1), (H)(3), and (I)(1)(a) and (b) and 668(A)(introductory paragraph) and to enact R.S. 14:98(D)(4) and (E)(5), relative to operating a vehicle while intoxicated; to provide relative to the eligibility for participation in a drug division probation program by persons convicted of a third or subsequent offense of operating a vehicle while intoxicated; to provide relative to the sentencing of persons convicted of a third or subsequent offense of operating a vehicle while intoxicated; to provide relative to driver's licenses; to extend the time period within which to request an administrative hearing regarding a driver's license suspension after an arrest for operating a vehicle while intoxicated; to provide with respect to installation of ignition interlock devices in motor vehicles owned by certain persons; to provide for procedures following revocation or denial of license; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:5304(O) is hereby amended and reenacted to read as follows:

§5304. The drug division probation program

* * *

O.(1) The provisions of Code of Criminal Procedure Article 893(A) and (D) which prohibit the court from suspending or deferring the imposition of sentences for violations of the Uniform Controlled Dangerous Substances Law or for violations of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A) shall not apply to prosecutions in drug division probation programs as authorized by this Chapter.

1 request to the Department of Public Safety and Corrections for an administrative
2 hearing in accordance with the provisions of R.S. 32:668.

3 (3) In a case where a person submits to an approved chemical test for
4 intoxication, but the results of the test are not immediately available, the law
5 enforcement officer shall comply with Paragraphs (1) and (2) of this Subsection, and
6 the person shall have ~~fifteen~~ thirty days from the date of arrest to make written
7 request for an administrative hearing. If after thirty days from the date of arrest the
8 test results have not been received or if the person was twenty-one years of age or
9 older on the date of arrest and the test results show a blood alcohol level of less than
10 0.08 percent by weight, then no hearing shall be held and the license shall be
11 returned without the payment of a reinstatement fee. If the person was under the age
12 of twenty-one years on the date of arrest and the test results show a blood alcohol
13 level of less than 0.02 percent by weight, then no hearing shall be held and the
14 license shall be returned without the payment of a reinstatement fee.

15 * * *

16 B. If such written request is not made by the end of the ~~fifteen-day~~ thirty-day
17 period, the person's license shall be suspended as follows:

18 * * *

19 D.(1) Upon receipt of a request for an administrative hearing, the
20 Department of Public Safety and Corrections shall issue a document extending the
21 temporary license, which shall remain in effect until the completion of administrative
22 suspension, revocation, or cancellation proceedings. The Department of Public
23 Safety and Corrections shall forward the record of the case to the division of
24 administrative law for a hearing within sixty days of the ~~date of arrest~~ receipt of the
25 written request for an administrative hearing.

26 H.

27 * * *

28 (3) Paragraph (1) of this Subsection shall not apply to a person who refuses
29 to submit to an approved chemical test upon a second or subsequent arrest for R.S.
30 14:98 or ~~14:98.1~~ 98.1, or a parish or municipal ordinance that prohibits driving a

1 motor vehicle while ~~operating a vehicle~~ intoxicated. However, this Paragraph shall
2 not apply if the second or subsequent arrest occurs more than ten years after the prior
3 arrest.

4 I.(1) In addition to any other provision of law, an ignition interlock device
5 shall be installed in any motor vehicle operated by any of the following persons
6 whose driver's license has been suspended in connection with the following
7 circumstances as a condition of the reinstatement of such person's driver's license:

8 (a) Any person who has refused to submit to an approved chemical test for
9 intoxication, after being requested to do so, for a second ~~violation~~ arrest of R.S.
10 14:98 or 98.1 or a parish or municipal ordinance that prohibits operating a vehicle
11 while intoxicated and whose driver's license has been suspended in accordance with
12 law.

13 (b) Any person who has submitted to an approved chemical test for
14 intoxication where the results indicate a blood alcohol level of 0.08 percent or above
15 and whose driver's license has been suspended in accordance with the law for a ~~an~~ an
16 ~~violation~~ arrest occurring within five years of the first ~~violation~~ arrest.

17 * * *

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

20 A. Upon suspending the license or permit to drive or nonresident operating
21 privilege of any person or upon determining that the issuance of a license or permit
22 shall be denied to the person, the Department of Public Safety and Corrections shall
23 immediately notify the person in writing and upon his request shall afford him an
24 opportunity for a hearing based upon the department's records or other evidence
25 admitted at the hearing, and in the same manner and under the same conditions as is
26 provided in R.S. 32:414 for notification and hearings in the case of suspension of
27 licenses, except that no law enforcement officer shall be compelled by such person
28 to appear or testify at such hearing and ~~the~~ there shall be a rebuttable presumption
29 that any inconsistencies in evidence submitted by the department and admitted at the
30 hearing shall be strictly construed in favor of the person regarding the revocation,

