HLS 18RS-232 ORIGINAL

2018 Regular Session

HOUSE BILL NO. 525

BY REPRESENTATIVE BAGNERIS

DWI: Provides relative to the crime of operating a vehicle while intoxicated

1	AN ACT
2	To amend and reenact R.S. 14:98.1(A)(1)(introductory paragraph) and (d) and 98.5(C) and
3	R.S. 32:378.2(A), relative to operating a vehicle while intoxicated; to provide
4	relative to persons placed on probation for a first offense; to prohibit the operation
5	of a motor vehicle by certain persons; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 14:98.1(A)(1)(introductory paragraph) and (d) and 98.5(C) are
8	hereby amended and reenacted to read as follows:
9	§98.1. Operating while intoxicated; first offense; penalties
10	A.(1) Except as modified by the provisions of provided in Paragraphs (2) and
11	(3) of this Subsection, on a conviction of a first offense violation of R.S. 14:98, the
12	offender shall be fined not less than three hundred dollars nor more than one
13	thousand dollars, and shall be imprisoned for not less than ten days nor more than six
14	months. Imposition or execution of sentence under this Paragraph shall not be
15	suspended unless the offender is placed on probation with the minimum conditions
16	that he complete all of the following:
17	* * *
18	(d) Except as provided by Subparagraph (3)(e) of this Subsection, the court
19	may order that the offender not Not operate a motor vehicle during the period of
20	probation, or such shorter time as set by the court, unless any the vehicle, while

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1	being operated by the offender, is equipped with a functioning ignition interlock
2	device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2.
3	* * *
4	§98.5. Special provisions and definitions
5	* * *
6	C.(1) Any plea agreement reached by the parties for an offense of operating
7	a motor vehicle while intoxicated in violation of R.S. 14:98 shall include a
8	prohibition that the offender not operate a motor vehicle, unless the vehicle is
9	equipped with a functioning ignition interlock device in compliance with the
10	provisions of this Section, R.S. 15:306, and R.S. 32:378.2. The period of time that
11	the offender is restricted from operating a motor vehicle pursuant to the provisions
12	of this Paragraph shall be agreed upon by the parties, but in no case shall the period
13	of time be less than six months.
14	(1)(2) No offender who is ordered to install an ignition interlock device as
15	a condition of probation, or pursuant to a plea agreement as set forth by the
16	provisions of this Subsection, shall:
17	(a) Fail to comply with all applicable provisions of R.S. 15:306 and 307 and
18	R.S. 32:378.2 and 414(D)(1)(b).
19	(b) Violate the conditions of his restricted driver's license as set by the
20	Department of Public Safety and Corrections.
21	(c) Operate, rent, lease, or borrow a motor vehicle unless that vehicle is
22	equipped with a functioning ignition interlock device.
23	(d) Request or solicit any other person to blow into an ignition interlock
24	device or to start a motor vehicle equipped with the device for the purpose of
25	providing the offender with an operable motor vehicle.
26	(2)(3) If the court imposes the use of an ignition interlock device as a
27	condition of probation, the offender shall provide proof of compliance to the court
28	or the probation officer within thirty days. If the offender fails to provide proof of

installation within that period, absent a finding by the court of good cause for the

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1 failure that is entered into the court record, the court shall revoke the offender's 2 probation. (3)(4) The provisions of this Subsection shall not require installation of an 3 4 ignition interlock device in any vehicle described in R.S. 32:378.2(I). 5 6 Section 2. R.S. 32:378.2(A) is hereby amended and reenacted to read as follows: Ignition interlock devices; condition of probation for certain DWI 7 8 offenders; restricted license 9 A. In addition to any other provisions of law and except as otherwise 10 provided in Subsection I of this Section, the court may require that any person who 11 is placed on probation as provided in R.S. 14:98(B), and the court shall require that 12 any person who is placed on probation as provided by R.S. 14:98(C) for a violation of R.S. 14:98 not operate a motor vehicle during the period of probation unless the 13 14 vehicle is equipped with a functioning ignition interlock device as provided in this 15 Section. 16

## **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 525 Original

2018 Regular Session

Bagneris

**Abstract:** Provides for prohibitions on operating a vehicle for a person who is placed on probation for a first offense DWI or who enters into a plea agreement for a DWI.

<u>Present law</u> provides that any person convicted of a first offense of operating a vehicle while intoxicated (DWI) shall be fined not less than \$300 nor more than \$1,000, and shall be imprisoned for not less than ten days nor more than six months. Further provides that imposition or execution of this sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete certain requirements.

<u>Present law</u> authorizes the court to prohibit a person placed on probation for a conviction of first offense DWI from operating any motor vehicle during the period of probation, or such shorter time as set by the court, unless the vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device.

<u>Proposed law</u> amends <u>present law</u> to require the person placed on probation for a conviction of a first offense DWI from operating any motor vehicle during the period of probation, or

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such shorter time as set by the court, unless the vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device.

<u>Proposed law</u> also provides that any plea agreement reached by the parties for a DWI offense shall include a requirement that the offender not operate a motor vehicle, unless the vehicle is equipped with a functioning ignition interlock device in compliance with the provisions of present law which provides that:

- (1) No offender who is ordered to install an ignition interlock device shall:
  - (a) Violate the conditions of his restricted driver's license as set by the Dept. of Public Safety and Corrections.
  - (b) Operate, rent, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.
  - (c) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the offender with an operable motor vehicle.
- (2) If the court imposes the use of an ignition interlock device as a condition of probation, the offender shall provide proof of compliance to the court or the probation officer within thirty days. Failure to provide such proof without good cause shall result in revocation of the offender's probation.
- (3) The person shall have the system on his vehicle monitored by the manufacturer for proper use.

<u>Proposed law</u> provides that the period of time that the offender is restricted from operating a motor vehicle pursuant to these provisions of <u>proposed law</u> shall be agreed upon by the parties, but in no case shall the period of time be less than six months.

(Amends R.S. 14:98.1(A)(1)(intro. para.) and (d) and 98.5(C) and R.S. 32:378.2(A))