

Regular Session, 2012

HOUSE BILL NO. 1204 (Substitute for House Bill No. 682 by Representative Pylant)

BY REPRESENTATIVE PYLANT

DWI: Provides relative to the reinstatement of driving privileges associated with a violation of criminal law and extends time in which to request an administrative hearing following a DWI arrest

1 AN ACT

2 To amend R.S. 32:667(A)(2), (3), (B)(introductory paragraph), (D)(1) and (H), relative to
3 driver's licenses; to provide additional time to request an administrative hearing
4 regarding a driver's license suspension; to provide relative to the reinstatement of
5 driving privileges associated with a violation of criminal law; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:667(A)(2), (3), (B)(introductory paragraph), (D)(1) and (H) are
9 hereby amended to read as follows:

10 §667. Seizure of license; circumstances; temporary license

11 A.

12 * * *

13 (2) The temporary receipt shall also provide and serve as notice to the person
14 that he has not more than ~~fifteen~~ thirty days from the date of arrest to make written
15 request to the Department of Public Safety and Corrections for an administrative
16 hearing in accordance with the provisions of R.S. 32:668.

17 (3) In a case where a person submits to an approved chemical test for
18 intoxication, but the results of the test are not immediately available, the law
19 enforcement officer shall comply with Paragraphs (1) and (2) of this Subsection, and

1 the person shall have ~~fifteen~~ thirty days from the date of arrest to make written
2 request for an administrative hearing. If after thirty days from the date of arrest the
3 test results have not been received or if the person was twenty-one years of age or
4 older on the date of arrest and the test results show a blood alcohol level of less than
5 0.08 percent by weight, then no hearing shall be held and the license shall be
6 returned without the payment of a reinstatement fee. If the person was under the age
7 of twenty-one years on the date of arrest and the test results show a blood alcohol
8 level of less than 0.02 percent by weight, then no hearing shall be held and the
9 license shall be returned without the payment of a reinstatement fee.

10 * * *

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

13 * * *

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

21 * * *

22 ~~H.(1) When any person's driver's license has been seized, suspended, or~~
23 ~~revoked, and the seizure, suspension, or revocation is connected to a charge or~~
24 ~~charges of violation of a criminal law, and the charge or charges do not result in a~~
25 ~~conviction, plea of guilty, or bond forfeiture, the person charged shall have his~~
26 ~~license immediately reinstated and shall not be required to pay any reinstatement fee~~
27 ~~if at the time for reinstatement of driver's license, it can be shown that the criminal~~
28 ~~charges have been dismissed or that there has been a permanent refusal to charge a~~
29 ~~crime by the appropriate prosecutor or there has been an acquittal. If, however, at~~

1 ~~the time for reinstatement, the licensee has pending against him criminal charges~~
2 ~~arising from the arrest which led to his suspension or revocation of driver's license,~~
3 ~~the reinstatement fee shall be collected. Upon subsequent proof of final dismissal~~
4 ~~or acquittal, other than under Article 893 or 894 of the Code of Criminal Procedure,~~
5 ~~the licensee shall be entitled to a reimbursement of the reinstatement fee previously~~
6 ~~paid. In no event shall exemption from this reinstatement fee or reimbursement of~~
7 ~~a reinstatement fee affect the validity of the underlying suspension or revocation.~~

8 ~~(2) If a licensee qualifies for the exemption from the reinstatement fee or for~~
9 ~~a reimbursement of the reinstatement fee as provided in Paragraph (1) of this~~
10 ~~Subsection, the licensee shall receive credit for the unexpired portion of the license~~
11 ~~which was seized, and shall be exempt from the payment of, or shall receive~~
12 ~~reimbursement for the payment of, the duplicate license fee and the handling fee with~~
13 ~~regard to the license which was seized.~~

14 (1) The final disposition of a criminal law charge or charges shall not result
15 in the reinstatement of driving privileges suspended or revoked for a violation of
16 R.S. 32:661 through 670.

17 (2) A reinstatement fee shall not be charged to an individual when his
18 suspension or revocation of driving privileges are recalled pursuant to a ruling of an
19 administrative law judge or the subsequent appeal of an administrative law judge's
20 ruling.

21 * * *

22 Section 2. The Department of Public Safety and Corrections, public safety services,
23 may promulgate rules and regulations pursuant to the Administrative Procedure Act and
24 subject to the oversight of the House and Senate committees on transportation, highways,
25 and public works, as are necessary to implement the provisions of this Act.

26 Section 3. This Act shall become effective upon signature of the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without the
28 signature of the governor, as provided by Article III, Section 18 of the Constitution of

- 1 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act
- 2 shall become effective on the day following such approval.

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)]

Pylant

HB No. 1204

Abstract: Provides for extension of time to request an administrative hearing following a DWI arrest.

Present law provides for 15 days to request an administrative hearing following the issuance of a temporary receipt for a driver's license for a person arrested for driving while intoxicated.

Proposed law extends the time in which an administrative hearing to 30 days.

Present law provides that DPS&C shall forward the record of the case to the division of administrative law for a hearing within sixty days of the date of arrest.

Proposed law provides that DPS&C shall forward the record of the case to the division of administrative law for a hearing within sixty days of the date of receipt of the written request for an administrative hearing.

Present law provides that when any person's driver's license has been seized, suspended, or revoked, and the seizure, suspension, or revocation is connected to a charge or charges of violation of a criminal law, and the charge or charges do not result in a conviction, plea of guilty, or bond forfeiture, the person charged will have his license immediately reinstated and will not be required to pay a reinstatement fee if at the time for reinstatement of driver's license, it can be shown that the criminal charges have been dismissed or that there has been a permanent refusal to charge a crime by the appropriate prosecutor or there has been an acquittal.

Present law provides that, if, however, at the time for reinstatement, the licensee has pending criminal charges against him arising from the arrest which led to his suspension or revocation of driver's license, the reinstatement fee shall be collected.

Present law provides that upon subsequent proof of final dismissal or acquittal, other than under Arts. 893 or 894 of the Code of Criminal Procedure, the licensee shall be entitled to a reimbursement of the reinstatement fee previously paid. Present law provides that in no event shall exemption from this reinstatement fee or reimbursement of a reinstatement fee affect the validity of the underlying suspension or revocation.

Present law provides that if a licensee qualifies for the exemption from the reinstatement fee or for a reimbursement of the reinstatement fee as provided in present law, the licensee shall receive credit for the unexpired portion of the license which was seized, and shall be exempt from the payment of, or shall receive reimbursement for the payment of, the duplicate license fee and the handling fee with regard to the license which was seized.

Proposed law removes present law and provides that the final disposition of a criminal law charge or charges shall not result in the reinstatement of driving privileges suspended or revoked for a violation of R.S. 32:661 through 670, pertaining to the administration of chemical tests.

Proposed law would require reinstatement fees to be paid when the final disposition of a criminal law charge or charges shall not result in the reinstatement of driving privileges suspended or revoked for a violation of R.S. 32:661 through 670, pertaining to the administration of chemical tests.

Proposed law clarifies that a reinstatement fee is not be charged to an individual when his suspension or revocation of driving privileges are recalled pursuant to a ruling of an administrative law judge or the subsequent appeal of an administrative law judge's ruling.

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

(R.S. 32:667(A)(2), (3), (B)(intro. para.), (D)(1) and (H))