SLS 19RS-300 ORIGINAL

2019 Regular Session

SENATE BILL NO. 206

BY SENATOR GATTI

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FEES/LICENSES/PERMITS. Provides relative to seizure of driver's license under certain circumstances. (8/1/19)

AN ACT

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To amend and reenact the introductory paragraph of R.S. 32:667(A), 667(A)(3), the introductory paragraph of 667(B), and 667(B)(1)(b), and to enact R.S. 32:667(B)(3)(d), relative to drivers' licenses; to provide for the seizure of the driver's license of a person under the influence of controlled dangerous substances, or a combination of alcohol and one or more uncontrolled substance drugs that may be legally obtained with or without a prescription when a certified drug recognition expert determines the person is impaired; to increase the time period for a person to request an administrative hearing after submission to an approved test when the chemical test results are not immediately available; to provide for suspension of the driver's license of a person who submits to an approved chemical test when a certified drug recognition expert determines the person is impaired; to provide relative to a person's eligibility for a restricted license; to authorize the district court for the parish where a licensee resides to order the department to issue a restricted license by ex parte order or after contradictory hearing to a person who submits to an approved chemical test as result of a first or second violation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 32:667(A), 667(A)(3), the introductory paragraph of 667(B), and 667(B)(1)(b) are hereby amended and reenacted, and R.S. 32:667(B)(3)(d) is hereby enacted to read as follows:

§667. Seizure of license; circumstances; temporary license

A. When a law enforcement officer places a person under arrest for a violation of R.S. 14:98 or 98.1, or a violation of a parish or municipal ordinance that prohibits operating a vehicle while intoxicated, and the person either refuses to submit to an approved chemical test for intoxication, or submits to the test and the test results show a blood alcohol level of 0.08 percent or above by weight or, if the person is under the age of twenty-one, a blood alcohol level of 0.02 percent or above by weight, or the person is under the influence of any controlled dangerous substance listed in Schedules I, II, III, IV, or V as set forth in R.S. 40:964, or the person is under the influence of a combination of alcohol and one or more drugs that are not controlled dangerous substances and are legally obtainable with or without a prescription, and a certified drug recognition expert determines the person is impaired, the following procedures shall apply:

* * *

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

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l	the license shall be returned without the payment of a reinstatement fee.
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3	B. If Except as otherwise provided in Paragraph (A)(3) of this Section,
4	if such written request for an administrative hearing is not made by the end of the
5	thirty-day period, the person's license shall be suspended as follows:
6	(1)(a) * * *
7	(b) On or after September 30, 2003, if the person submitted to the an
8	approved chemical test, and the test results show a blood alcohol level of 0.08
9	percent or above by weight, or a certified drug recognition expert determined the
10	person was impaired, his driving privileges shall be suspended for ninety days from
11	the date of suspension on first offense violation, without eligibility for a hardship
12	license for the first thirty days, and for three hundred sixty-five days from the date
13	of suspension, without eligibility for a hardship license, on second and subsequent
14	violations occurring within five years of the first offense violation. If the person was
15	under the age of twenty-one years on the date of the test, and the test results show a
16	blood alcohol level of 0.02 percent or above by weight, his driving privileges shall
17	be suspended for one hundred eighty days from the date of suspension.
18	* * *
19	(3)(a) * * *
20	(d) In a case where the person submits to an approved chemical test for
21	intoxication as a result of a first or second violation, and a certified drug
22	recognition expert determines the person was under the influence of any
23	controlled dangerous substance listed in Schedules I, II, III, IV, or V as set forth
24	in R.S. 40:964, or the person was under the influence of a combination of
25	alcohol and one or more drugs that are not controlled dangerous substances and
26	are legally obtainable with or without a prescription, he shall immediately be
27	eligible for and shall be granted a restricted license by the Department of Public
28	Safety and Corrections. If the department fails or refuses to issue the restricted

driver's license, the district court for the parish in which the licensee resides

may issue an order to direct the department to issue the restricted license either

by ex parte order or after contradictory hearing.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

DIGEST 2019 Regular Session

SB 206 Original

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Gatti

<u>Present law</u> requires a law enforcement officer who arrests a person for violation of impairment related offenses, when the person either refuses to submit to an approved chemical test for intoxication, or submits to the test and the test results show a blood alcohol level of 0.08 percent or above by weight, or if the person is under the age of 21, a blood alcohol level of 0.02 percent or above by weight, to do the following:

- (1) Seize the arrested person's driver's license and issue a temporary receipt of license on an approved DPS&C form that authorizes the person to operate a vehicle on the public highways of this state for a period not to exceed 30 days from the date or arrest; and
- (2) The temporary receipt also provides and serves notice that the person has not more than 30 days from the date of arrest to request an administrative hearing pursuant to R.S. 32:668.

<u>Proposed law</u> adds to the list of impairment related offenses that the person is under the influence of any controlled dangerous substance listed in Schedules I, II, III, IV, or V as set forth in R.S. 40:964, or the person is under the influence of a combination of alcohol and one or more drugs that are not controlled dangerous substances and are legally obtainable with or without a prescription, and a certified drug recognition expert determines the person is impaired.

<u>Present law</u> requires a person who submits to an approved chemical test, but the results of the test are not immediately available, to make a written request to the DPS&C for an administrative hearing 30 days from the date of arrest.

<u>Present law</u> provides that no hearing shall be held and the driver's license shall be returned without the payment of a reinstatement fee if test results are not received within 30 days of arrest, or if test results show a person's blood alcohol level was less than 0.08 percent by weight for persons 21 years of age or older or was less than 0.02 percent for persons under 21 years of age.

<u>Proposed law</u> increases the time periods to request an administrative hearing and to return a driver's license when test results are not immediately available or do not show illegal blood alcohol levels <u>from</u> 30 to 90 days for persons who submit to an approved chemical test.

<u>Present law</u> requires suspension of the driver's license of a person arrested for an impairment violation who fails to submit a written request for an administrative hearing by the end of the 30 day period, as follows:

- (1) First offense, 90 days suspension, without eligibility for a hardship license for the first 30 days;
- (2) Second and subsequent offenses within fives years of the first offense, 365 days suspension, without eligibility for a hardship license.

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

<u>Proposed law</u> adds suspension of the driver's license based upon a determination of intoxication by a certified drug recognition expert.

<u>Proposed law</u> provides immediate eligibility and grant of a restricted license to a person who submits to an approved chemical test, when a certified drug recognition expert determines the person was under the influence of any controlled dangerous substance listed in Schedules I, II, III, IV, or V as set forth in R.S. 40:964, or the person is under the influence of a combination of alcohol and one or more drugs that are not controlled dangerous substances and are legally obtainable with or without a prescription.

Effective August 1, 2019.

(Amends R.S. 32:667(A)(intro para), 667(A)(3), 667(B)(intro para), and 667(B)(1)(b); adds R.S. 32:667(B)(3)(d))