Regular Session, 2011

HOUSE BILL NO. 638 (Substitute for House Bill No. 218 by Representative White)

BY REPRESENTATIVES WHITE, ARMES, GISCLAIR, HARDY, RICHARD, RICHARDSON, GARY SMITH, JANE SMITH, AND ST. GERMAIN

MTR VEHICLE/DRIVER LIC: Provides for the suspension of drivers' licenses in certain cases involving vehicular homicide

AN ACT

To enact R.S. 32:667.1, relative to tests for suspected drunken drivers; to provide for the seizure and suspension of drivers' licenses upon arrest for vehicular homicide; to provide for procedures; to provide for the period of the suspension; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:667.1 is hereby enacted to read as follows:

§667.1. Seizure of license upon arrest for vehicular homicide; issuance of temporary license; suspension

A. When a law enforcement officer places a person under arrest for a violation of R.S. 14:32.1 (vehicular homicide), the following procedure shall apply:

(1) The officer shall seize the driver's license of a person under arrest and shall issue in its place a temporary receipt of license on a form approved by the Department of Public Safety and Corrections. The temporary receipt shall authorize the person to whom it has been issued to operate a motor vehicle upon the public highways of this state for a period not to exceed thirty days from the date of arrest or until the hearing can be conducted as provided for in this Section, whichever occurs first.

(2) The temporary receipt shall also serve as notice to the person under arrest that he has fifteen days from the date of arrest to make a written request to the court for a contradictory hearing in accordance with the provisions of this Section.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

B. If a written request is not made within the fifteen-day period, the person's license shall be suspended for one year, without benefit of eligibility for a hardship license.

C.(1) Upon receipt of a request for a contradictory hearing, the court shall issue a document extending the temporary license, which shall remain in effect until the completion of the suspension proceedings.

(2) The court shall conduct a contradictory hearing to determine whether a chemical test has been performed of the blood, urine, or other bodily substance of the person arrested and whether the test indicates the presence of alcohol, an abused substance, a controlled dangerous substance as set forth in R.S. 40:964, or any other substance which causes impairment. The scope of the hearing shall be limited to the issues provided for in this Paragraph.

(3) If the court determines that the test provided for in Paragraph (2) of this Subsection indicates the presence of alcohol, an abused substance, a controlled dangerous substance or any other substance which causes impairment, then the court shall suspend the driver's license of any person arrested for a violation of R.S. 14:32.1 (vehicular homicide) for one year, without benefit of a hardship license.

D.(1) If the person is convicted of the crime of vehicular homicide, his license shall be suspended for a period of two years following his release from incarceration with credit for the time in which the license was suspended prior to conviction.

(2) If the charge of vehicular homicide does not result in a conviction, plea of guilty, or bond forfeiture, the person charged shall have his license immediately reinstated and shall not be required to pay any reinstatement fee if, at the time for reinstatement of driver's license, it can be shown that the criminal charges have been dismissed, there has been a permanent refusal to charge a crime by the appropriate prosecutor, or there has been an acquittal.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

E. The court shall notify the Department of Public Safety and Corrections when it has suspended a license or taken any other action pursuant to the provisions of this Section.

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)]

White HB No. 638

Abstract: Provides for the suspension of drivers' licenses upon arrest for vehicular homicide when chemical tests indicate the presence of alcohol or other substances.

Proposed law establishes a procedure for seizure of a driver's license upon arrest of a person for vehicular homicide as follows:

(1) The officer shall seize the driver's license of a person under arrest and shall issue in its place a temporary receipt of license on a form approved by the Dept. of Public Safety and Corrections. The temporary receipt shall authorize the person to whom it has been issued to operate a motor vehicle upon the public highways of this state for a period not to exceed 30 days from the date of arrest or until the hearing can be conducted, whichever occurs first.

(2) The temporary receipt shall serve as notice to the person under arrest that he has 15 days from the date of arrest to make a written request to the court for a contradictory hearing.

Proposed law provides that if a written request is not made within the 15-day period, the person's license shall be suspended for one year, without benefit of eligibility for a hardship license.

Proposed law provides that upon receipt of a request for a contradictory hearing, the court shall issue a document extending the temporary license, which shall remain in effect until the completion of the suspension proceedings.

Proposed law provides that the court shall conduct a contradictory hearing limited to determining whether a chemical test has been performed of the blood, urine, or other bodily substance of the person arrested and whether that test indicates the presence of alcohol, an abused substance, a controlled dangerous substance, or any other substance which causes impairment.

Proposed law provides that if the court makes those determinations, then the court shall suspend the driver's license of any person arrested for a violation of vehicular homicide for one year, without benefit of a hardship license.

Proposed law provides that if the person is convicted of the crime of vehicular homicide, his license shall be suspended for a period of two years following his release from incarceration with credit for the time in which the license was suspended prior to conviction.

Proposed law provides that if the charge of vehicular homicide does not result in a conviction, plea of guilty, or bond forfeiture, the person charged shall have his license immediately reinstated and shall not be required to pay any reinstatement fee if, at the time for reinstatement of driver's license, it can be shown that the criminal charges have been

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

dismissed, there has been a permanent refusal to charge a crime by the appropriate prosecutor, or there has been an acquittal.

(Adds R.S. 32:667.1)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added provision clarifying that the scope of the hearing conducted by the district court is limited to whether a chemical test was conducted and whether the test indicated the presence of a substance which causes impairment.

2. Clarified that if the court determines the presence of a substance which causes impairment, then the court shall suspend the driver's license of a person arrested for vehicular homicide for one year.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.