ENROLLED

Regular Session, 2011

ACT No. 298

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

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.

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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.

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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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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