

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

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:667(A)(2) and (3), (B)(introductory paragraph), (D)(1), and
9 (H)(1) are hereby amended and reenacted 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
20 the person shall have ~~fifteen~~ thirty days from the date of arrest to make written
21 request for an administrative hearing. If after thirty days from the date of arrest the
22 test results have not been received or if the person was twenty-one years of age or

1 older on the date of arrest and the test results show a blood alcohol level of less than
2 0.08 percent by weight, then no hearing shall be held and the license shall be
3 returned without the payment of a reinstatement fee. If the person was under the age
4 of twenty-one years on the date of arrest and the test results show a blood alcohol
5 level of less than 0.02 percent by weight, then no hearing shall be held and the
6 license shall be returned without the payment of a reinstatement fee.

7 * * *

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

10 * * *

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

18 * * *

19 H.(1) When any person's driver's license has been seized, suspended, or
20 revoked, for the first time only pursuant to R.S. 32:661 through 670 or 414, and the
21 seizure, suspension, or revocation is connected to a charge or charges of violation of
22 a criminal law, and the charge or charges do not result in a conviction, plea of guilty,
23 or bond forfeiture, the person charged shall have his license immediately reinstated
24 and shall not be required to pay any reinstatement fee if at the time for reinstatement
25 of driver's license, it can be shown that the criminal charges have been dismissed or
26 that there has been a permanent refusal to charge a crime by the appropriate
27 prosecutor or there has been an acquittal. If, however, at the time for reinstatement,
28 the licensee has pending against him criminal charges arising from the arrest which
29 led to his suspension or revocation of driver's license, the reinstatement fee shall be

1 collected. Upon subsequent proof of final dismissal or acquittal, other than under
2 Article 893 or 894 of the Code of Criminal Procedure, the licensee shall be entitled
3 to a reimbursement of the reinstatement fee previously paid. In no event shall
4 exemption from this reinstatement fee or reimbursement of a reinstatement fee affect
5 the validity of the underlying suspension or revocation.

6 * * *

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

11 Section 3. This Act shall become effective upon signature of the governor or, if not
12 signed by the governor, upon expiration of the time for bills to become law without the
13 signature of the governor, as provided by Article III, Section 18 of the Constitution of
14 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act
15 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 and for the reinstatement of driving privileges in certain circumstances.

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 to request 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 60 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 60 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.

Proposed law provides that when any person's driver's license has been seized, suspended, or revoked for the first time only pursuant to R.S. 32:661 through 670 or R.S. 32:414, 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.

Proposed law retains present law.

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 retains present law.

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

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

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Provided that when any person's driver's license has been seized, suspended, or revoked, for the first time only pursuant to R.S. 32:661 through 670 or 414, 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.