HLS 22RS-70 ENGROSSED

2022 Regular Session

HOUSE BILL NO. 415

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BY REPRESENTATIVE MARINO

DWI: Provides relative to the administrative hearing applicable to the suspension of certain driving privileges

AN ACT

2 To amend and reenact R.S. 32:668(A)(introductory paragraph), relative to the administrative 3 driving privileges hearing; to remove the exclusion of a law enforcement officer 4 from appearing at an administrative hearing procedure regarding the revocation, 5 suspension, or denial of a license or permit; to remove the rebuttable presumption 6 applicable to a suspension hearing on certain driving privileges; and to provide for 7 related matters. 8 Be it enacted by the Legislature of Louisiana: 9 Section 1. R.S. 32:668(A)(introductory paragraph) is hereby amended and reenacted 10 to read as follows: 11 §668. Procedure following revocation or denial of license; hearing; court review; 12 review of final order; restricted licenses 13 A. Upon suspending the license or permit to drive or nonresident operating 14 privilege of any person or upon determining that the issuance of a license or permit 15 shall be denied to the person, the Department of Public Safety and Corrections shall 16 immediately notify the person in writing and upon his request shall afford him an 17 opportunity for a hearing based upon the department's records or other evidence 18 admitted at the hearing, and in the same manner and under the same conditions as is 19 provided in R.S. 32:414 for notification and hearings in the case of suspension of 20 licenses, except that no law enforcement officer shall be compelled by such person

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

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to appear or testify at such hearing and there shall be a rebuttable presumption that any inconsistencies in evidence submitted by the department and admitted at the hearing shall be strictly construed in favor of the person regarding the revocation, suspension, or denial of license. The scope of such a hearing for the purposes of this Part shall be limited to the following issues:. The hearing provided for in this Section shall be based on the department's records except that the person whose operating privileges were suspended may subpoena a law enforcement officer who initiated the stop or who performed or participated in a breathalyzer test to appear or testify at such hearing. Notwithstanding any provision of this Section to the contrary, a law enforcement officer may appear or testify at such hearing by simultaneous transmission through audio-visual electronic equipment. The scope of the hearing shall include only the following issues:

DIGEST

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HB 415 Engrossed

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Marino

Abstract: Removes the exclusion of a law enforcement officer's obligation to appear or testify at an administrative driving privileges hearing and removes the rebuttable presumption applicable to a suspension hearing on certain driving privileges. Provides a law enforcement officer may appear or testify through audio-visual electronic equipment.

<u>Present law</u> requires the Dept. of Public Safety and Corrections to immediately notify the person of certain driving privileges in writing and afford such person an opportunity for a hearing based on the department's records or other evidence admitted at the hearing and in the same manner and under the same conditions as provided in <u>present law</u>. Specifies that such hearings include the revocation, suspension, or denial of a license or permit. Further, <u>present law</u> provides that such person cannot compel a law enforcement officer to appear or testify at the hearing and provides a rebuttable presumption, strictly construed in favor of such person, of any inconsistencies in evidence submitted by the department and admitted at the hearing.

<u>Proposed law</u> removes the exclusion that no law enforcement officer can be compelled by such person to appear or testify at such hearing and removes the rebuttable presumption, strictly construed in favor of such person, of any inconsistencies in evidence submitted by the department and admitted at the hearing regarding the revocation, suspension, or denial of a license.

<u>Proposed law</u> modifies <u>present law</u> by specifying that the hearing be based on the department's records except that the person whose operating privileges were suspended may subpoena a law enforcement officer who initiated the stop or who performed or participated in a breathalyzer test to appear or testify at such hearing. Further specifies notwithstanding any provision of <u>present law</u> to the contrary, a law enforcement officer may appear or testify at such hearing by simultaneous transmission through audio-visual electronic equipment. Additionally, specifies that the scope of the hearing only includes certain enumerated issues.

(Amends R.S. 32:668(A)(intro. para.))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Transportation</u>, Highways and Public Works to the original bill:

- 1. Remove a provision that specified that a person's opportunity for a hearing was based upon the department's records or other evidence admitted at the hearing.
- 2. Add a provision that requires the requested hearing be based on the department's records except that the person whose operating privileges were suspended may subpoena a law enforcement officer who initiated the stop or who performed or participated in a breathalyzer test to appear or testify at such hearing. Further authorizes a law enforcement officer to appear or testify at such hearing by simultaneous transmission through audio-visual electronic equipment.