

2018 Regular Session

HOUSE BILL NO. 525

BY REPRESENTATIVE BAGNERIS

DWI: Provides relative to the crime of operating a vehicle while intoxicated

1 AN ACT

2 To amend and reenact R.S. 14:98.1(A)(1)(d) and 98.5(C)(2) and R.S. 32:378.2(A),  
3 667(B)(1)(b), and 668(B)(1)(c) and to repeal R.S. 32:668(B)(1)(b), relative to  
4 operating a vehicle while intoxicated; to provide relative to persons placed on  
5 probation for a first offense; to prohibit the operation of a motor vehicle by certain  
6 persons; to provide relative to the procedures for obtaining a restricted driver's  
7 license; to eliminate the waiting period for obtaining a restricted license when  
8 refusing to submit to a chemical test for intoxication; to eliminate the waiting period  
9 for obtaining a restricted license when test results show a blood alcohol  
10 concentration over the legal limit; to require ignition interlock devices as a condition  
11 of obtaining a restricted driver's license; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 14:98.1(A)(1)(d) and 98.5(C)(2) are hereby amended and reenacted  
14 to read as follows:

15 §98.1. Operating while intoxicated; first offense; penalties

16 A.(1) Except as modified by the provisions of Paragraphs (2) and (3) of this  
17 Subsection, on a conviction of a first offense violation of R.S. 14:98, the offender  
18 shall be fined not less than three hundred dollars nor more than one thousand dollars,  
19 and shall be imprisoned for not less than ten days nor more than six months.

20 Imposition or execution of sentence under this Paragraph shall not be suspended

1 unless the offender is placed on probation with the minimum conditions that he  
2 complete all of the following:

3 \* \* \*

4 (d) Except as provided by Subparagraph (3)(c) of this Subsection, the court  
5 ~~may~~ shall order that the offender not operate a motor vehicle during the period of  
6 probation, or such shorter time as set by the court, unless any vehicle, while being  
7 operated by the offender, is equipped with a functioning ignition interlock device in  
8 compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2.

9 \* \* \*

10 §98.5. Special provisions and definitions

11 \* \* \*

12 C.

13 \* \* \*

14 (2) ~~If~~ When the court imposes the use of an ignition interlock device as a  
15 condition of probation, the offender shall provide proof of compliance to the court  
16 or the probation officer within thirty days. If the offender fails to provide proof of  
17 installation within that period, absent a finding by the court of good cause for the  
18 failure that is entered into the court record, the court shall revoke the offender's  
19 probation.

20 \* \* \*

21 Section 2. R.S. 32:378.2(A), 667(B)(1)(b), and 668(B)(1)(c) are hereby amended and  
22 reenacted to read as follows:

23 §378.2. Ignition interlock devices; condition of probation for certain DWI  
24 offenders; restricted license

25 A. In addition to any other provisions of law and except as otherwise  
26 provided in Subsection I of this Section, ~~the court may require that any person who~~  
27 ~~is placed on probation as provided in R.S. 14:98(B), and the court shall require that~~  
28 any person who is placed on probation ~~as provided by R.S. 14:98(C)~~ for a violation  
29 of R.S. 14:98 not operate a motor vehicle during the period of probation unless the

1 vehicle is equipped with a functioning ignition interlock device as provided in this  
2 Section.

3 \* \* \*

4 §667. Seizure of license; circumstances; temporary license

5 \* \* \*

6 B.

7 \* \* \*

8 (1)

9 \* \* \*

10 (b) On or after September 30, 2003, if the person submitted to the test and  
11 the test results show a blood alcohol level of 0.08 percent or above by weight, his  
12 driving privileges shall be suspended for ninety days from the date of suspension on  
13 first offense violation, ~~without eligibility for a hardship license for the first thirty~~  
14 ~~days~~, and for three hundred sixty-five days from the date of suspension, ~~without~~  
15 ~~eligibility for a hardship license~~, on second and subsequent violations occurring  
16 within ~~five~~ ten years of the first offense. If the person was under the age of twenty-  
17 one years on the date of the test and the test results show a blood alcohol level of  
18 0.02 percent or above by weight, his driving privileges shall be suspended for one  
19 hundred eighty days from the date of suspension.

20 \* \* \*

21 §668. Procedure following revocation or denial of license; hearing; court  
22 review; review of final order; restricted licenses

23 \* \* \*

24 B.(1)

25 \* \* \*

26 (c) ~~However, any~~ Any licensee who has had his license suspended  
27 for a first or second offense of operating a motor vehicle while under the  
28 influence of alcoholic beverages where the licensee submits to a chemical  
29 test and the results show a blood alcohol level of 0.08 percent or above by

1 weight, or of 0.02 percent or above by weight if the licensee was under the  
2 age of twenty-one years on the date of the test, or where the licensee has  
3 refused a chemical test for intoxication under the provisions of this  
4 Subsection, shall, upon proof of need to the Department of Public Safety and  
5 Corrections, be immediately eligible for and shall be issued an ignition  
6 interlock restricted license sufficient to maintain livelihood or allow the  
7 licensee to maintain the necessities of life. In the event that the department  
8 fails or refuses to issue the ignition interlock restricted driver's license, the  
9 district court for the parish in which the licensee resides may issue an order  
10 directing the department to issue the ignition interlock restricted license  
11 either by ex parte order or after contradictory hearing.

12 \* \* \*

13 Section 3. R.S. 32:668(B)(1)(b) is hereby repealed in its entirety.

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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)]

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HB 525 Engrossed

2018 Regular Session

Bagneris

**Abstract:** Provides for prohibitions on operating a vehicle for a person who is placed on probation for a first offense DWI or who enters into a plea agreement for a DWI.

Present law provides that any person convicted of a first offense of operating a vehicle while intoxicated (DWI) shall be fined not less than \$300 nor more than \$1,000, and shall be imprisoned for not less than ten days nor more than six months. Further provides that imposition or execution of this sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete certain requirements.

Present law authorizes the court to prohibit a person placed on probation for a conviction of first offense DWI from operating any motor vehicle during the period of probation, or such shorter time as set by the court, unless the vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device.

Proposed law requires the court to prohibit a person placed on probation for a conviction of a first offense DWI from operating any motor vehicle during the period of probation, or such short time set by the court, unless the vehicle is equipped with a functioning ignition interlock device.

Proposed law amends present law to require the person placed on probation for a conviction of a first offense DWI from operating any motor vehicle during the period of probation, or such shorter time as set by the court, unless the vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device.

Present law provides that on or after Sept. 30, 2003, if the person submitted to a test and shows results of a BAC of 0.08 percent or above, his driving privileges shall be suspended for 90 days from the date of suspension on a first offense violation, without eligibility for a hardship license for the first 30 days, and for 365 days from the date of suspension, without eligibility for a hardship license, on second and subsequent violations occurring within five years of the first offense.

Proposed law amends present law to increase the time period from five years to 10 years within which second and subsequent violations occur for the 365 days of suspension of driving privileges.

Present law provides that any licensee who had his license suspended for a first or second offense DWI shall be immediately eligible and shall be issued an ignition interlock restricted license.

Proposed law provides that any licensee who fails a chemical test with a BAC of 0.08 or 0.02 percent or above if the licensee was under the age of 21 or a person who refuses a chemical test is required to have an ignition interlock device as a condition of their restricted driver's license.

Present law provides that no person who has refused a chemical test for intoxication is eligible for a restricted license for the first 90 days of suspension. When a person submits to a test and the results show a BAC of 0.08 percent or above or 0.02 percent or above if the person was under 21 years of age, he is not eligible for a restricted driver's license. Proposed law repeals present law.

(Amends R.S. 14:98.1(A)(1)(d) and 98.5(C)(2), R.S. 32:378.2(A), 667(B)(1)(b), and 668(B)(1)(c); Repeals R.S. 32:668(B)(1)(b))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Restore present law relative to a first offense penalty for a DWI.
2. Require rather than authorize the court to order that the offender not operate a motor vehicle during the period of probation, or shorter time set by the court, unless the vehicle is equipped with a functioning ignition interlock device in compliance with present law.
3. Remove proposed law relative to any plea agreement reached by the parties for a DWI offense.
4. Add changes to present law which have the effect of eliminating the 30-day waiting period for persons who submit to a test and show a BAC of 0.08 or above and the 90-day waiting period for those persons who refuse the chemical test for intoxication.
5. Add that any licensee who fails a chemical test with a BAC of 0.08 or above or 0.02 or above if the licensee was under 21 years of age or a person who refuses a chemical test is required to have an ignition interlock device as a condition of their restricted driver's license.
6. Increase the time period from five years to 10 years within which second and subsequent violations occur for the 365 days of suspension of driving privileges.