

Regular Session, 2010

HOUSE BILL NO. 628

BY REPRESENTATIVE GISCLAIR

CRIME: Provides with respect to the crime of vehicular homicide

1 AN ACT

2 To amend and reenact R.S. 14:32.1(B) and to enact R.S. 14:32.1(A)(7), relative to vehicular  
3 homicide; to provide for the elements of vehicular homicide; to provide for criminal  
4 penalties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:32.1(B) is hereby amended and reenacted and R.S. 14:32.1(A)(7)  
7 is hereby enacted to read as follows:

8 §32.1. Vehicular homicide

9 A. Vehicular homicide is the killing of a human being caused proximately  
10 or caused directly by an offender engaged in the operation of, or in actual physical  
11 control of, any motor vehicle, aircraft, watercraft, or other means of conveyance,  
12 whether or not the offender had the intent to cause death or great bodily harm,  
13 whenever any of the following conditions exists and such condition was a  
14 contributing factor to the killing:

15 \* \* \*

16 (7) The operator fails to maintain control of the vehicle by falling asleep.

17 B.(1) Except as provided in Paragraph (2) of this Subsection, whoever  
18 ~~Whoever~~ commits the crime of vehicular homicide shall be fined not less than two  
19 thousand dollars nor more than fifteen thousand dollars and shall be imprisoned with  
20 or without hard labor for not less than five years nor more than thirty years. At least

1 three years of the sentence of imprisonment shall be imposed without benefit of  
2 probation, parole, or suspension of sentence. If the operator's blood alcohol  
3 concentration is 0.15 percent or more by weight based upon grams of alcohol per one  
4 hundred cubic centimeters of blood, then at least five years of the sentence of  
5 imprisonment shall be imposed without benefit of probation, parole, or suspension  
6 of sentence. If the offender was previously convicted of a violation of R.S. 14:98,  
7 then at least five years of the sentence of imprisonment shall be imposed without  
8 benefit of probation, parole, or suspension of sentence. The court shall require the  
9 offender to participate in a court-approved substance abuse program and may require  
10 the offender to participate in a court-approved driver improvement program. All  
11 driver improvement courses required under this Section shall include instruction on  
12 railroad grade crossing safety.

13 (2) Whoever commits the crime of vehicular homicide by violating the  
14 provisions of Paragraph (A)(7) of this Section shall be imprisoned with or without  
15 hard labor for not more than five years. At least one year of the sentence imposed  
16 shall be served without benefit of probation, parole, or suspension of sentence.

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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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Gisclair

HB No. 628

**Abstract:** Amends the crime of vehicular homicide to include the driver failing to maintain control of the vehicle by falling asleep.

Present law defines the crime of vehicular homicide as the killing of a person when the offender is operating or in physical control of a vehicle when any of the following conditions exist and the condition was a contributing factor to the killing:

- (1) The operator is under the influence of alcoholic beverages.
- (2) The operator's blood alcohol concentration is 0.08% or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.
- (3) The operator is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V.
- (4) The operator is under the influence of alcoholic beverages.

- (5) The operator is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.
- (6) The operator is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription and the influence is caused by the operator knowingly consuming quantities of the drug or drugs which substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

Proposed law expands present law to include the operator failing to maintain control of the vehicle by falling asleep.

Present law provides for the following criminal penalties for vehicular homicide: a fine of not less than \$2,000 nor more than \$15,000, imprisonment with or without hard labor for five to 30 years. Requires at least three years to be served without benefit of probation, parole, or suspension of sentence.

Proposed law provides that whoever commits the crime of vehicular homicide by failing to maintain control of the vehicle by falling asleep shall be imprisoned with or without hard labor for not more than five years. Requires at least one year of the sentence to be served without benefit of probation, parole, or suspension of sentence.

(Amends R.S. 14:32.1(B); Adds R.S. 14:32.1(A)(7))