

ACT No. 662

2024 Regular Session

HOUSE BILL NO. 776

BY REPRESENTATIVES BRYANT, BACALA, BOYER, COX, HORTON, KNOX,
LAFLEUR, MOORE, VENTRELLA, VILLIO, AND WALTERS

1 AN ACT

2 To amend and reenact R.S. 14:32.1(A)(1) and (3) through (5), 32.8(A)(2)(a) and (c) through
3 (e), 39.1(A)(1) and (3), 39.2(A)(1) and (3), 98(A)(1)(introductory paragraph), (a),
4 and (c) and (2), (C)(1)(e) and (3), (E), and (F)(1) and (2), 98.1(Section heading),
5 98.2(Section heading), 98.3(Section heading), 98.4(Section heading), 98.5(B)(4),
6 98.6(A), and 98.7(A) and R.S. 32:661(A)(1) and (2), 661.1(A), 661.2(A), 664(A),
7 666(A)(1)(a)(i) and (2)(c) and (B), 667.1(C)(2) and (3), 668(A)(1),
8 681(A)(introductory paragraph) and (B), (C), and (D), to enact R.S. 14:98(A)(3) and
9 R.S. 32:661(E) and 681(H), and to repeal R.S. 14:32.1(A)(6) and (7), 32.8(A)(2)(f)
10 and (g), 39.1(A)(4) and (5), 39.2(A)(4) and (5), and 98(A)(1)(d) and (e), relative to
11 operating a vehicle while intoxicated; to provide relative to changes in terminology;
12 to provide for a definition; to provide relative to elements of certain offenses
13 involving a motor vehicle and the operator of a motor vehicle; and to provide for
14 related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 14:32.1(A)(1) and (3) through (5), 32.8(A)(2)(a) and (c) through (e),
17 39.1(A)(1) and (3), 39.2(A)(1) and (3), 98(A)(1)(introductory paragraph), (a), and (c) and
18 (2), (C)(1)(e) and (3), (E), and (F)(1) and (2), 98.1(Section heading), 98.2(Section heading),
19 98.3(Section heading), 98.4(Section heading), 98.5(B)(4), 98.6(A), and 98.7(A) are hereby
20 amended and reenacted and R.S. 14:98(A)(3) is hereby enacted to read as follows:

21 §32.1. Vehicular homicide

22 A. Vehicular homicide is the killing of a human being caused proximately
23 or caused directly by an offender engaged in the operation of, or in actual physical
24 control of, any motor vehicle, aircraft, watercraft, or other means of conveyance,

1 whether or not the offender had the intent to cause death or great bodily harm,
2 whenever any of the following conditions exists and such condition was a
3 contributing factor to the killing:

4 (1) The operator is ~~under the influence of~~ impaired by alcoholic beverages
5 as determined by chemical tests administered under the provisions of R.S. 32:662.

6 * * *

7 (3)(a) The operator is ~~under the influence of any controlled dangerous~~
8 ~~substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964~~ impaired
9 by any other drug, combination of drugs, or combination of alcohol and drugs.

10 (b) As used in this Section, the term "drug" means any substance or
11 combination of substances that, when taken into the human body, can impair the
12 ability of the person to operate a vehicle safely.

13 (4) The operator is ~~under the influence of~~ impaired by alcoholic beverages.

14 (5)(a) ~~The operator is under the influence of a combination of alcohol and~~
15 ~~one or more drugs which are not controlled dangerous substances and which are~~
16 ~~legally obtainable with or without a prescription.~~

17 (b) ~~It shall be an affirmative defense to any charge under this Paragraph~~
18 ~~pursuant to this Section that the label on the container of the prescription drug or the~~
19 ~~manufacturer's package of the drug does not contain a warning against combining~~
20 ~~the medication with alcohol.~~

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

26 (7) The operator's blood has any detectable amount of any controlled
27 dangerous substance listed in Schedule I, II, III, or IV as set forth in R.S. 40:964, or
28 a metabolite of such controlled dangerous substance, that has not been medically
29 ordered or prescribed for the individual.

30 * * *

1 §32.8. Third degree feticide

2 A. Third degree feticide is:

3 * * *

4 (2) The killing of an unborn child caused proximately or caused directly by
5 an offender engaged in the operation of, or in actual physical control of, any motor
6 vehicle, aircraft, vessel, or other means of conveyance whether or not the offender
7 had the intent to cause death or great bodily harm whenever any of the following
8 conditions exist and such condition was a contributing factor to the killing:

9 (a) The offender is ~~under the influence of~~ impaired by alcoholic beverages
10 as determined by chemical tests administered under the provisions of R.S. 32:662.

11 * * *

12 (c)(i) The offender is ~~under the influence of any controlled dangerous~~
13 ~~substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964~~ impaired
14 by any other drug, combination of drugs, or combination of alcohol and drugs.

15 (ii) As used in this Section, the term "drug" means any substance or
16 combination of substances that, when taken into the human body, can impair the
17 ability of the person to operate a vehicle safely.

18 (d) The offender is ~~under the influence of~~ impaired by alcoholic beverages.

19 (e)(i) ~~The offender is under the influence of a combination of alcohol and~~
20 ~~one or more drugs which are not controlled dangerous substances and which are~~
21 ~~legally obtainable with or without a prescription.~~

22 (ii) ~~It shall be an affirmative defense to any charge under this Subparagraph~~
23 ~~that the label on the container of the prescription drug or the manufacturer's package~~
24 ~~of the drug does not contain a warning against combining the medication with~~
25 ~~alcohol.~~

26 (f) ~~The offender is under the influence of one or more drugs which are not~~
27 ~~controlled dangerous substances and which are legally obtainable with or without a~~
28 ~~prescription and the influence is caused by the offender's knowingly consuming~~
29 ~~quantities of the drug or drugs which substantially exceed the dosage prescribed by~~
30 ~~the physician or the dosage recommended by the manufacturer of the drug.~~

1 quantities of the drug or drugs which substantially exceed the dosage prescribed by
2 the physician or the dosage recommended by the manufacturer of the drug.

3 * * *

4 §39.2. First degree vehicular negligent injuring

5 A. First degree vehicular negligent injuring is the inflicting of serious bodily
6 injury upon the person of a human being when caused proximately or caused directly
7 by an offender engaged in the operation of, or in actual physical control of, any
8 motor vehicle, aircraft, watercraft, or other means of conveyance whenever any of
9 the following conditions exists:

10 (1) The offender is ~~under the influence of~~ impaired by alcoholic beverages.

11 * * *

12 (3)(a) The offender is ~~under the influence of any controlled dangerous~~
13 ~~substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964, or any~~
14 ~~abused substance~~ impaired by any other drug, combination of drugs, or combination
15 of alcohol and drugs.

16 (b) As used in this Section, the term "drug" means any substance or
17 combination of substances that, when taken into the human body, can impair the
18 ability of the person to operate a vehicle safely.

19 (4)(a) ~~The operator is under the influence of a combination of alcohol and~~
20 ~~one or more drugs which are not controlled dangerous substances and which are~~
21 ~~legally obtainable with or without a prescription.~~

22 (b) ~~It shall be an affirmative defense to any charge under this Paragraph~~
23 ~~pursuant to this Section that the label on the container of the prescription drug or the~~
24 ~~manufacturer's package of the drug does not contain a warning against combining~~
25 ~~the medication with alcohol.~~

26 (5) ~~The operator is under the influence of one or more drugs which are not~~
27 ~~controlled dangerous substances and which are legally obtainable with or without a~~
28 ~~prescription and the influence is caused by the operator knowingly consuming~~

1 quantities of the drug or drugs which substantially exceed the dosage prescribed by
2 the physician or the dosage recommended by the manufacturer of the drug.

3 * * *

4 §98. Operating a vehicle while ~~intoxicated~~ impaired

5 A.(1) The crime of operating a vehicle while ~~intoxicated~~ impaired is the
6 operating of any motor vehicle, aircraft, watercraft, vessel, or other means of
7 conveyance when any of the following conditions exist:

8 (a) The operator is ~~under the influence of~~ impaired by alcoholic beverages.

9 * * *

10 (c) The operator is ~~under the influence of any controlled dangerous substance~~
11 ~~listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964~~ impaired by any other
12 drug, combination of drugs, or combination of alcohol and drugs.

13 ~~(d)(i) The operator is under the influence of a combination of alcohol and~~
14 ~~one or more drugs that are not controlled dangerous substances and that are legally~~
15 ~~obtainable with or without a prescription.~~

16 ~~(ii) It shall be an affirmative defense to any charge under this Subparagraph~~
17 ~~that the label on the container of the prescription drug or the manufacturer's package~~
18 ~~of the drug does not contain a warning against combining the medication with~~
19 ~~alcohol.~~

20 ~~(e)(i) The operator is under the influence of one or more drugs that are not~~
21 ~~controlled dangerous substances and that are legally obtainable with or without a~~
22 ~~prescription.~~

23 ~~(ii) It shall be an affirmative defense to any charge under this Subparagraph~~
24 ~~that the operator did not knowingly consume quantities of the drug or drugs that~~
25 ~~substantially exceed the dosage prescribed by the physician or the dosage~~
26 ~~recommended by the manufacturer of the drug.~~

27 (2) A valid driver's license shall not be an element of the offense, and the
28 lack thereof shall not be a defense to a prosecution for operating a vehicle while
29 ~~intoxicated~~ impaired.

1 B.

2 * * *

3 (4) An offender who has been convicted of any second violation of any state
4 or local law or ordinance prohibiting operating a vehicle while ~~intoxicated~~ impaired,
5 committed within five years of the commission of any prior operating while
6 ~~intoxicated~~ impaired violation, shall not be eligible for home incarceration until the
7 offender has first served a minimum of forty-eight consecutive hours of
8 imprisonment.

9 * * *

10 §98.6. Underage operating while ~~intoxicated~~ impaired

11 A. The crime of underage operating a vehicle while ~~intoxicated~~ impaired is
12 the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of
13 conveyance when the operator's blood alcohol concentration is 0.02 percent or more
14 by weight based on grams of alcohol per one hundred cubic centimeters of blood, if
15 the operator is under the age of twenty-one.

16 * * *

17 §98.7. Unlawful refusal to submit to chemical tests; arrests for driving while
18 ~~intoxicated~~ impaired

19 A. No person under arrest for a violation of R.S. 14:98, ~~98.4~~ 98.6, or any
20 other law or ordinance that prohibits operating a vehicle while ~~intoxicated~~ impaired,
21 may refuse to submit to a chemical test when requested to do so by a law
22 enforcement officer if he has refused to submit to such test on two previous and
23 separate occasions of any such violation.

24 * * *

25 Section 2. R.S. 32:661(A)(1) and (2), 661.1(A), 661.2(A), 664(A), 666(A)(1)(a)(i)
26 and (2)(c) and (B), 667.1(C)(2) and (3), 668(A)(1), 681(A)(introductory paragraph) and (B),
27 (C), and (D) are hereby amended and reenacted and R.S. 32:661(E) and 681(H) are hereby
28 enacted to read as follows:

1 §661. Operating a vehicle under the influence of alcoholic beverages or illegal
 2 substance or controlled dangerous substances; implied consent to chemical
 3 tests; administering of test and presumptions

4 A.(1) Any person, regardless of age, who operates a motor vehicle upon the
 5 public highways of this state shall be deemed to have given consent, subject to the
 6 provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or
 7 other bodily substance for the purpose of determining the alcoholic content of his
 8 blood, and the presence of any ~~abused substance or controlled dangerous substance~~
 9 ~~as set forth in R.S. 40:964~~ drug in his blood if arrested for any offense arising out of
 10 acts alleged to have been committed while the person was driving or in actual
 11 physical control of a motor vehicle while believed to be under the influence of
 12 alcoholic beverages, ~~or any abused substance or controlled dangerous substance as~~
 13 ~~set forth in R.S. 40:964~~ any drug, combination of drugs, or combination of alcohol
 14 and drugs.

15 (2)(a) The test or tests shall be administered at the direction of a law
 16 enforcement officer having reasonable grounds to believe the person, regardless of
 17 age, to have been driving or in actual physical control of a motor vehicle upon the
 18 public highways of this state while under the influence of either alcoholic beverages,
 19 ~~or any abused substance or controlled dangerous substance as set forth in R.S.~~
 20 ~~40:964~~ any drug, combination of drugs, or combination of alcohol and drugs. The
 21 law enforcement agency by which such officer is employed shall designate in writing
 22 and under what conditions which of the aforesaid tests shall be administered.

23 (b) In the case of all traffic fatalities, the coroner, or his designee, shall
 24 perform or cause to be performed a toxicology screen on the victim or victims of all
 25 traffic fatalities for determining evidence of any alcoholic content of the blood and
 26 the presence of any ~~abused substance or controlled dangerous substance as set forth~~
 27 ~~in R.S. 40:964~~ drug, or combination of drugs, which shall include the extracting of
 28 all bodily substance samples necessary for such toxicology screen. The coroner, or
 29 his designee, shall be responsible for ensuring the body is not removed from his
 30 custody until such time as the bodily substance samples are extracted. The coroner's

1 report shall be made available to the investigating law enforcement agency and may
 2 be admissible in any court of competent jurisdiction as evidence of the alcoholic
 3 content of the blood and the presence of any ~~abused substance or controlled~~
 4 ~~dangerous substance as set forth in R.S. 40:964~~ drug, or combination of drugs, at the
 5 time of the fatality. The coroner, or his designee, shall determine, by the most
 6 current and accepted scientific method available, whether the presence of alcoholic
 7 content in the blood of the deceased is the result of pre-death ingestion of alcoholic
 8 beverages or the postmortem synthesis of ethanol. Nothing herein shall be construed
 9 to limit the authority of the investigating law enforcement agency from conducting
 10 an investigation of the accident scene concurrently with the coroner or his designee.

11 * * *

12 E. As used in this Chapter, the term "drug" means any substance or
 13 combination of substances that, when taken into the human body, may impair the
 14 ability of the person to operate a vehicle safely.

15 §661.1. Operating a watercraft under the influence of alcoholic beverages or
 16 controlled dangerous substances; implied consent to chemical tests;
 17 administering of test and presumptions

18 A.(1) Any person, regardless of age, who operates a motor powered
 19 watercraft upon the public navigable waterways of this state shall be deemed to have
 20 given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of
 21 his blood, breath, urine, or other bodily substance for the purpose of determining the
 22 alcoholic content of his blood and the presence of any ~~abused substance or controlled~~
 23 ~~dangerous substance as set forth in R.S. 40:964~~ drug in his blood if arrested for any
 24 offense arising out of acts alleged to have been committed while the person was
 25 driving or in actual physical control of a motor powered watercraft, while believed
 26 to be under the influence of alcoholic beverages, ~~or any abused substance or~~
 27 ~~controlled dangerous substance as set forth in R.S. 40:964~~ any drug, combination of
 28 drugs, or combination of alcohol and drugs.

29 (2) The test or tests shall be administered at the direction of a law
 30 enforcement officer having reasonable grounds to believe the person, regardless of

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

1 §664. Persons authorized to administer test

2 A. When a person submits to a blood test at the request of a law enforcement
3 officer under the provisions of this Part, only a physician, physician assistant,
4 registered nurse, licensed practical nurse, emergency medical technician, chemist,
5 nurse practitioner, or other qualified technician may withdraw blood for the purpose
6 of determining the alcoholic content or presence of any ~~abused or illegal controlled~~
7 ~~dangerous substances~~ drug, or combination of drugs, therein. No law enforcement
8 officer who is not otherwise qualified as a physician, physician assistant, registered
9 nurse, licensed practical nurse, emergency medical technician, chemist, nurse
10 practitioner, or other qualified technician may withdraw blood for the purpose of
11 determining, or of having determined, the alcoholic content or presence of any
12 ~~abused or illegal controlled dangerous substances~~ drug, or combination of drugs,
13 therein. This limitation shall not apply to the taking of breath specimens. Only
14 procedures approved and promulgated by the Department of Public Safety and
15 Corrections may be used in the analysis of blood, urine, breath, or other bodily
16 substance.

17 * * *

18 §666. Refusal to submit to chemical test; submission to chemical tests; exception;
19 effects of

20 A.(1)(a)(i) When a law enforcement officer has probable cause to believe
21 that a person has violated R.S. 14:98, 98.6, or any other law or ordinance that
22 prohibits operating a vehicle while intoxicated, that person may not refuse to submit
23 to a chemical test or tests if he has refused to submit to such test or tests on two
24 previous and separate occasions of any previous such violation or in any case
25 wherein a fatality has occurred or a person has sustained serious bodily injury in a
26 crash involving a motor vehicle, aircraft, watercraft, vessel, or other means of
27 conveyance. Serious bodily injury means bodily injury which involves
28 unconsciousness, protracted and obvious disfigurement, or protracted loss or
29 impairment of the function of a bodily member, organ, or mental faculty, or a
30 substantial risk of death. The law enforcement officer shall direct that a chemical test

1 or tests be conducted of a person's blood, urine, or other bodily substance, or perform
 2 a chemical test of such person's breath, for the purpose of determining the alcoholic
 3 content of his blood and the presence of any ~~abused substance or controlled~~
 4 ~~substance as set forth in R.S. 40:964~~ drug, or combination of drugs, in his blood in
 5 such circumstances. The officer may direct a person to submit to a breath test, and
 6 if indicated, an additional blood test for the purpose of testing for the presence of
 7 alcohol, ~~abused substances, and controlled dangerous substances~~ any drug, or
 8 combination of drugs. A refusal of any such test or tests shall result in the suspension
 9 of driving privileges as provided by the provisions of this Part. A physician,
 10 physician assistant, registered nurse, licensed practical nurse, emergency medical
 11 technician, chemist, nurse practitioner, or other qualified technician shall perform a
 12 chemical test in accordance with the provisions of R.S. 32:664 when directed to do
 13 so by a law enforcement officer.

14 * * *

15 (2) In all cases other than those in Paragraph (1) of this Subsection, a person
 16 under arrest for a violation of R.S. 14:98, 98.1, or other law or ordinance that
 17 prohibits operating a vehicle while intoxicated may refuse to submit to such
 18 chemical test or tests, after being advised of the consequences of such refusal as
 19 provided for in R.S. 32:661(C), subject to the following:

20 * * *

21 (c) Evidence of his refusal shall be admissible in any criminal action or
 22 proceeding arising out of acts alleged to have been committed while the person,
 23 regardless of age, was driving or in actual physical control of a motor vehicle upon
 24 the public highways of this state while under the influence of alcoholic beverages or
 25 any ~~abused substance or controlled dangerous substance as set forth in R.S. 40:964~~
 26 drug, or combination of drugs. Additionally, evidence of his refusal shall be
 27 admissible in any criminal action or proceeding arising out of acts alleged to have
 28 been committed while the person under twenty-one years of age was driving or in
 29 actual physical control of a motor vehicle upon the public highways of this state after
 30 having consumed alcoholic beverages. However, such evidence shall not be

1 §681. Postaccident drug testing; accidents involving fatalities, required

2 A. The operator of any motor vehicle or watercraft which is involved in a
3 collision or crash on the public highways, including waterways, shall be deemed to
4 have given consent to, and shall be administered, a chemical test or tests of his blood,
5 urine, or other bodily substances for the purpose of determining the presence of any
6 ~~abused substance or controlled dangerous substance as set forth in R.S. 40:964 or~~
7 ~~other applicable provision of law~~ drug, combination of drugs, or any other impairing
8 substance, under any of the following circumstances:

9 * * *

10 B. The test or tests required pursuant to Subsection A of this Section shall
11 be administered at the direction of a law enforcement officer having reasonable
12 grounds to believe the person to have been operating or in actual physical control of
13 a motor vehicle upon the public highways of this state which is involved in a
14 collision or crash or to have been operating or in physical control of a watercraft on
15 the waterways of this state involved in a collision, crash, or other casualty in which
16 a suspected serious injury or a fatality occurs, in order to determine the presence of
17 ~~any abused substance or controlled dangerous substance as set forth in R.S. 40:964~~
18 ~~or any other applicable provision of law~~, drug, combination of drugs, or any other
19 impairing substance. The law enforcement agency by which such officer is
20 employed shall designate in writing under what conditions the test or tests shall be
21 administered.

22 C. In the case of all traffic or boating fatalities, the coroner, or his designee,
23 shall perform or cause to be performed a toxicology screen on the deceased victim
24 or victims for determining evidence of the presence of any ~~abused substance or~~
25 ~~controlled dangerous substance as set forth in R.S. 40:964 or other applicable~~
26 ~~provision of law~~ drug, combination of drugs, or any other impairing substance which
27 shall include the extracting of all bodily substance samples necessary for such
28 toxicology screen. The coroner, or his designee, shall be responsible for ensuring the
29 body is not removed from his custody until such time as the bodily substance
30 samples are extracted. The coroner's report shall be made available to the

1 investigating law enforcement agency and may be admissible in any court of
 2 competent jurisdiction as evidence of the presence of any ~~abused substance or~~
 3 ~~controlled dangerous substance as set forth in R.S. 40:964 or other applicable~~
 4 ~~provision of law~~ drug, combination of drugs, or any other impairing substance at the
 5 time of the fatality. Nothing ~~herein~~ in this Subsection shall be construed to limit the
 6 authority of the investigating law enforcement agency from conducting an
 7 investigation of the accident scene concurrently with the coroner or his designee.

8 D. Any chemical test or tests of a person's blood, urine, or other bodily
 9 substance for the purpose of determining the presence of any ~~abused substance or~~
 10 ~~controlled dangerous substance as set forth in R.S. 40:964 or other applicable~~
 11 ~~provision of law~~ drug, combination of drugs, or any other impairing substance shall
 12 be administered in the same manner and subject to the provisions of Part XIV of this
 13 Chapter.

14 * * *

15 H. As used in this Section, the term "drug" means any substance or
 16 combination of substances that, when taken into the human body, may impair the
 17 ability of the person to operate a vehicle safely.

18 Section 3. R.S. 14:32.1(A)(6) and (7), 32.8(A)(2)(f) and (g), 39.1(A)(4) and (5),
 19 39.2(A)(4) and (5), and 98(A)(1)(d) and (e) are hereby repealed in their entirety.

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____