

Regular Session, 2012

SENATE BILL NO. 419

BY SENATOR MILLS

DWI. Provides relative to breath and blood tests in connection with an arrest for operating a vehicle while intoxicated. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 32:666(A)(1)(a)(i), relative to offenses involving operating a
3 vehicle while intoxicated; to provide relative to breath, blood, and urine tests for the
4 presence of alcohol under certain circumstances; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 32:666(A)(1)(a)(i) is hereby amended and reenacted to read as
7 follows:

8 §666. Refusal to submit to chemical test; submission to chemical tests; exception;
9 effects of

10 A.(1)(a)(i) When a law enforcement officer has probable cause to believe that
11 a person has violated R.S. 14:98, R.S. 14:98.1, or any other law or ordinance that
12 prohibits operating a vehicle while intoxicated, that person may not refuse to submit
13 to a chemical test, **or tests**, if he has refused to submit to such test, **or tests**, on two
14 previous and separate occasions of any previous such violation or in any case
15 wherein a fatality has occurred or a person has sustained serious bodily injury in a
16 crash involving a motor vehicle, aircraft, watercraft, vessel, or other means of
17 conveyance. Serious bodily injury means bodily injury ~~which~~ **that** involves

1 unconsciousness, protracted and obvious disfigurement, or protracted loss or
 2 impairment of the function of a bodily member, organ, or mental faculty, or a
 3 substantial risk of death. The law enforcement officer shall direct that a chemical
 4 test, **or tests**, be conducted of a person's blood, urine, or other bodily substance, or
 5 perform a chemical test of such person's breath, for the purpose of determining the
 6 alcoholic content of his blood and the presence of any abused substance or controlled
 7 substance as set forth in R.S. 40:964 in his blood in such circumstances. **The officer**
 8 **may direct a person to submit to a breath test, and if indicated, an additional**
 9 **blood or urine test for the purpose of testing for the presence of alcohol, abused**
 10 **substances, or controlled dangerous substances. A refusal of any such test or**
 11 **tests shall result in suspension of driving privileges.** A physician, physician
 12 assistant, registered nurse, emergency medical technician, chemist, nurse
 13 practitioner, or other qualified technician shall perform a chemical test in accordance
 14 with the provisions of R.S. 32:664 when directed to do so by a law enforcement
 15 officer.

16 * * *

17 Section 2. This Act shall become effective upon signature by the governor or, if not
 18 signed by the governor, upon expiration of the time for bills to become law without signature
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 21 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present law provides that when a law enforcement officer has probable cause to believe that a person has committed one of several offenses involving operating a vehicle while intoxicated, that person may not refuse to submit to a chemical test if he has refused to submit to such test on two previous and separate such violations, or in any case wherein a fatality has occurred or a person has sustained serious bodily injury in a crash involving a motor vehicle, aircraft, watercraft, vessel, or other means of conveyance.

Present law defines "serious bodily injury" as bodily injury that involves unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

Present law provides that the law enforcement officer is to direct that a chemical test be conducted of a person's blood, urine, or other bodily substance, or perform a chemical test of such person's breath, for the purpose of determining the alcoholic content of his blood and the presence of any abused substance or controlled substance as set forth in present law in such circumstances.

Present law provides that a physician, physician assistant, registered nurse, emergency medical technician, chemist, nurse practitioner, or other qualified technician is to perform a chemical test in accordance with the provisions of present law when directed to do so by a law enforcement officer.

Proposed law provides that a law enforcement officer may direct a person to submit to a breath test, and if indicated, an additional blood or urine test, for the purpose of testing for the presence of alcohol, abused substances, or controlled dangerous substances, and a refusal of any such test or tests will result in suspension of driving privileges.

Proposed law otherwise retains present law.

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

(Amends R.S. 32:666(A)(1)(a)(i))