

2023 Regular Session

SENATE BILL NO. 82

BY SENATOR FESI

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES. Provides relative to ignition interlock devices. (8/1/23)

AN ACT

To amend and reenact R.S. 14:98.1(A)(3)(c) and 98.2(A)(3)(c), R.S. 32:378.2(A), (B)(1)(a)(ii)(aa) and (bb), (H), and (M)(2) and 414(A)(1)(c)(i) and (ii) and (D)(1)(b), 667(B)(1)(b) and (3)(b) and (c), and (I)(1)(a), and the introductory paragraph of 668(B)(1)(a), and to enact R.S. 15:307.1 and R.S. 32:378.2(O), relative to ignition interlock devices; to provide standards for compliance with ignition interlock devices; to make technical changes; to change criminal offenses for driving while intoxicated; to provide for a change in time periods that a driver is required to have an ignition interlock device; to provide relative to restricted driver's licenses; to extend the amount of time that a driver is required to have an ignition interlock device upon notice of noncompliance; to provide an ignition interlock affordability plan; to provide relative to first and second offense penalties for operating a vehicle while intoxicated; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:98.1(A)(3)(c) and 98.2(A)(3)(c) are hereby amended and reenacted to read as follows:

§98.1. Operating while intoxicated; first offense; penalties

1 A. * * *

2 (3) * * *

3 (c) The court shall require that the offender not operate a motor vehicle
4 during the period of probation unless any vehicle, while being operated by the
5 offender, is equipped with a functioning ignition interlock device in compliance with
6 the requirements of R.S. 14:98.5(C) and R.S. 32:378.2. The ignition interlock device
7 shall remain installed and operative on his vehicle during the ~~first twelve-month~~
8 period of suspension of his driver's license following the date of conviction.

9 * * *

10 §98.2. Operating while intoxicated; second offense; penalties

11 A. * * *

12 (3) * * *

13 (c) The court shall require that the offender not operate a motor vehicle
14 during the period of probation unless any vehicle, while being operated by the
15 offender, is equipped with a functioning ignition interlock device in compliance with
16 the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2. The ignition
17 interlock device shall remain installed and operative on his vehicle during the ~~first~~
18 ~~three years of the~~ four-year period of the suspension of his driver's license.

19 * * *

20 Section 2. R.S. 15:307.1 is hereby enacted to read as follows:

21 **§307.1. Ignition interlock affordability**

22 **A. The Department of Public Safety and Corrections, office of state**
23 **police shall promulgate rules and regulations to establish and monitor**
24 **compliance with an ignition interlock affordability plan for individuals that**
25 **demonstrate economic hardship who are required to install an ignition interlock**
26 **device.**

27 **B. Economic hardship shall be satisfied if an individual required to have**
28 **the ignition interlock device is eligible for the Supplemental Nutrition**
29 **Assistance Program (SNAP), Medicaid, social security disability insurance**

1 (SSDI), social security income (SSI), or a judge's order for services of an
2 indigent public defender (IPD) when the defendant demonstrated income below
3 one hundred twenty-five percent of the federal poverty level.

4 C. Individuals that meet the economic hardship standard shall be
5 required to pay no more than fifty percent of fees assessed by the ignition
6 interlock service center for installation, monthly calibration, lease, and removal
7 of the device.

8 D. Individuals that meet the economic hardship standard are responsible
9 for any optional services an individual elects, fees related to any noncompliance
10 as defined in R.S. 32:378.2, state-mandated fees, and any costs related to
11 damaged, missing or unreturned equipment, and recovery of such equipment.

12 E. Individuals become eligible for the affordability plan on the date that
13 the individual provides the ignition interlock manufacturer, or ignition
14 interlock service center, acceptable documentation verifying that the individual
15 meets the standard for economic hardship. Continued eligibility may be verified
16 at the discretion of the ignition interlock manufacturer or ignition interlock
17 service center. Acceptable forms of documentation shall include an eligibility
18 card or qualifying letter for SNAP, Medicaid, SSDI, or SSI administered by the
19 social security administration, or a judge's order for an indigent public
20 defender as described in this Section. If the documentation does not name the
21 individual required to install the ignition interlock device, the individual shall
22 be required to sign a notarized affidavit provided by the Department of Public
23 Safety and Corrections attesting to his eligibility for SNAP, Medicaid, SSDI, or
24 SSI on a state-approved form.

25 F. An ignition interlock manufacturer or ignition interlock service center
26 shall not refuse service to an individual that has demonstrated eligibility for the
27 affordability plan in accordance with this Section.

28 G. An individual who has been refused service, after providing the
29 documentation required in this Section to an ignition interlock manufacturer

1 or ignition interlock service center, may file a complaint with the Department
 2 of Public Safety and Corrections, office of state police, applied technology unit.
 3 All complaints for refusal of service shall be investigated by the office of state
 4 police, applied technology unit, within thirty-days of receipt of the complaint.

5 H. If the investigation substantiates the refusal of service, the
 6 Department of Public Safety and Corrections, office of state police, applied
 7 technology unit, may issue a warning, suspension, or revocation of the
 8 certification for the ignition interlock manufacturer or the ignition interlock
 9 service center based on the facts of the investigation and the history of
 10 complaints related to the manufacturer or service center. An ignition interlock
 11 manufacturer or ignition interlock service center may appeal any suspension or
 12 revocation issued pursuant to this Subsection.

13 Section 3. R.S. 32:378.2(A), (B)(1)(a)(ii)(aa) and (bb), (H), and (M)(2),
 14 414(A)(1)(c)(i) and (ii) and (D)(1)(b), 667(B)(1)(b) and (3)(b) and (c), and (I)(1)(a), and the
 15 introductory paragraph of 668(B)(1)(a) are hereby amended and reenacted, and R.S.
 16 32:378.2(O) is hereby enacted to read as follows:

17 §378.2. Ignition interlock devices; condition of probation for certain DWI offenders;
 18 restricted license

19 A. In addition to any other provisions of law and except as otherwise
 20 provided in Subsection I of this Section, the court may require that any person who
 21 is placed on probation as provided in ~~R.S. 14:98(B)~~ **R.S. 14:98.1**, and the court shall
 22 require that any person who is placed on probation as provided by ~~R.S. 14:98(C)~~
 23 **R.S. 14:98.2** not operate a motor vehicle during the period of probation unless the
 24 vehicle is equipped with a functioning ignition interlock device as provided in this
 25 Section.

- 26 B.(1) * * *
- 27 (a) * * *
- 28 (ii) * * *

29 (aa) Upon first offense, if the offender had a blood alcohol concentration of

1 0.20 percent or greater, he shall be issued a restricted driver's license during the
 2 entire period of the two-year driver's license suspension imposed under the
 3 provisions of ~~R.S. 14:98(K)(1)~~ **R.S. 14:98.1 (A)(3)(b) and (c)** and shall be required
 4 to have a functioning ignition interlock device installed on his vehicle during the ~~first~~
 5 ~~twelve-month~~ period of the suspension.

6 (bb) Upon second offense, if the offender has a blood alcohol concentration
 7 of 0.20 percent or greater, he shall be eligible for a restricted driver's license for the
 8 period of suspension as imposed under the provisions of ~~R.S. 14:98(K)(2)(b)~~ **R.S.**
 9 **14:98.2 (A)(3)(b) and (c)**. The offender may be issued a restricted license during the
 10 entire four years on his suspension and shall be required to have a functioning
 11 ignition interlock device installed on his vehicle during the ~~first three years of the~~
 12 four-year suspension.

13 * * *

14 H. The person whose driving privilege is restricted pursuant to this Section
 15 shall have the system monitored by the manufacturer, at the manufacturer's expense,
 16 for proper use at least ~~bi-monthly~~ **every thirty days**, and more frequently as the
 17 court may order, on the operation of each ~~interlocking~~ ignition **interlock** device in
 18 the person's vehicles. A report of ~~such~~ monitoring shall be issued by the
 19 manufacturer to the court and the department within fourteen days after the system
 20 is monitored. However, the report issued to the department shall be in an electronic
 21 format specified by the department.

22 M. * * *

23 (2) No credit towards suspension time or any reinstatement requirement shall
 24 be given **if any of the following occur:**

25 **(a) if the The manufacturer reports to the Department of Public Safety and**
 26 **Corrections that any combination of two of the following violations have occurred**
 27 **in a one-month period, including any repeat violation of the same type once during**
 28 **the period of installation:**

29 ~~(a)(i)~~ Tampering with the device.

- 1 ~~(b)(ii)~~ Circumventing the device.
- 2 ~~(c)~~ Failure to bring the ignition interlock device in for required service.
- 3 ~~(d)~~ Failure to take or pass a re-test.
- 4 ~~(e)~~ Failure to pass a breath test.
- 5 ~~(f)~~ Use of the emergency override feature without justification.

6 **(b) The restricted operator fails to have the ignition interlock device**
 7 **serviced by an approved ignition interlock provider every thirty days, more**
 8 **than two times during the period of installation.**

9 **(c) The device has recorded any of the following, or any combination of**
 10 **the following, three or more times in a thirty-day period:**

11 **(i) Failure to take or pass an initial breath test where pass is defined as**
 12 **a breath alcohol concentration less than 0.02g of alcohol per 210L of breath.**

13 **(ii) Failure to take or pass a retest where pass is defined as a breath**
 14 **alcohol concentration less than 0.02g of alcohol per 210L of breath.**

15 ~~(g)(d)~~ Unauthorized removal of the device.

16 * * *

17 **O. Any driver statutorily required to utilize and maintain an ignition**
 18 **interlock device shall be in and remain in compliance with the standards set**
 19 **forth in Subsection M(2) of this Section. Upon notice to the Department of**
 20 **Public Safety and Corrections, the department shall extend the period the**
 21 **ignition interlock device is required by an additional six months and further**
 22 **restrict the driver's license. The department shall notify the driver that his**
 23 **driver's license will be restricted for an additional six months. A report of such**
 24 **noncompliance shall be issued by the manufacturer to the department in**
 25 **accordance with Subsection H of this Section.**

26 * * *

27 §414. Suspension, revocation, renewal, and cancellation of licenses; judicial review

28 A.(1) * * *

29 (c) * * *

1 (i) Upon first conviction, if the offender had a blood alcohol concentration
 2 of 0.20 percent or greater, his driver's license shall be suspended for two years and
 3 he shall be issued a restricted driver's license for the entire period of the suspension
 4 after he has provided proof to the department that his motor vehicle is equipped with
 5 a functioning ignition interlock device. A functioning ignition interlock device shall
 6 remain installed on his vehicle during the ~~first twelve-month~~ period of the
 7 suspension of his driver's license.

8 (ii) Upon second conviction, if the offender has a blood alcohol concentration
 9 of 0.20 percent or greater, his driver's license shall be suspended for four years. The
 10 offender shall be eligible for a restricted license ~~after a period of forty-five days of~~
 11 ~~suspension for the remainder of~~ **for** the four-year period of suspension after he has
 12 provided proof to the department that his motor vehicle is equipped with a
 13 functioning ignition interlock device. A functioning ignition interlock device shall
 14 remain installed on his vehicle during the first three-year period of the four-year
 15 period of the suspension of his driver's license.

16 * * *

17 D.(1)

* * *

18 (b) Any licensee who has had his license suspended for operating a motor
 19 vehicle while under the influence of alcoholic beverages under the provisions of this
 20 Subsection shall be eligible to apply for a restricted driver's license ~~after a period of~~
 21 ~~twelve months~~ upon proof that his motor vehicle has been equipped with a
 22 functioning ignition interlock device. The ignition interlock device shall remain on
 23 the motor vehicle for not less than six months from the date the restricted driver's
 24 license is granted. In the event that the department fails or refuses to issue the
 25 restricted driver's license, the district court for the parish in which the licensee
 26 resides may issue an order directing the department to issue the restricted license
 27 either by ex parte order or after contradictory hearing.

28 * * *

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

* * *

B. If ~~such~~ written request is not made by the end of the thirty-day period, the person's license shall be suspended as follows:

(1) * * *

(b) ~~On or after September 30, 2003, if~~ **If** the person submitted to the test and the test results show a blood alcohol level of 0.08 percent or above by weight, his driving privileges shall be suspended for ninety days from the date of suspension on first offense violation, ~~without eligibility for a hardship license for the first thirty days,~~ and for three hundred sixty-five 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. If the person was under the age of twenty-one years on the date of the test and the test results show a blood alcohol level of 0.02 percent or above by weight, his driving privileges shall be suspended for one hundred eighty days from the date of suspension.

* * *

(3) * * *

(b) If the person submitted to the test as a result of a first violation and the test results show a blood alcohol level of 0.20 percent or above by weight, he shall be eligible for a hardship license during the entire period of the imposed two-year suspension after he has provided proof that his motor vehicle has been equipped with an ignition interlock device. A functioning ignition interlock device shall remain installed on his motor vehicle during the ~~first twelve-month~~ period of his driver's license suspension.

(c) If the person submitted to the test as a result of a second violation and the test results show a blood alcohol level of 0.20 percent or above by weight, he shall be eligible for a hardship license during the entire four-year period of the suspension after he has provided proof that his motor vehicle has been equipped with an ignition interlock device. A functioning ignition interlock device shall remain installed on his motor vehicle during the ~~first three-years of the~~ four-year period of his driver's

1 license suspension.

2 * * *

3 I.(1) In addition to any other provision of law, an ignition interlock device
4 shall be installed in any motor vehicle operated by any of the following persons
5 whose driver's license has been suspended in connection with the following
6 circumstances as a condition of the reinstatement of ~~such~~ **the** person's driver's
7 license:

8 (a) Any person who has refused to submit to an approved chemical test for
9 intoxication, after being requested to do so, for a second **or subsequent** arrest of R.S.
10 14:98 or 98.6 or a parish or municipal ordinance that prohibits operating a vehicle
11 while intoxicated and whose driver's license has been suspended in accordance with
12 law.

13 * * *

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

16 * * *

17 B.(1)(a) In a case of first **or second** refusal, or ~~a~~ first **or second** submission
18 to a test for intoxication, ~~and when there has been no prior suspension of the driver's~~
19 ~~license~~, if suspension is otherwise proper, upon a showing of proof satisfactory to the
20 department that **an approved and functioning ignition interlock device has been**
21 **installed in the vehicle the person shall drive, and that** the suspension of driving
22 privileges would prevent the person from earning a livelihood, the department may:

23 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Archana D. Cadge.

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Present law provides the court require a first offense operating while intoxicated offender not operate a motor vehicle during the period of probation unless the vehicle is equipped with a functioning ignition interlock device that shall remain installed and operative during the first twelve-month period of suspension of his driver's license following the date of conviction.

Proposed law changes the first offense time frame the interlock device must remain on the offenders vehicle from the first twelve-month period to the entire period of suspension.

Present law provides the court require a second offense operating while intoxicated offender not operate a motor vehicle during the period of probation unless the vehicle is equipped with a functioning ignition interlock device that shall remain installed and operative during the first three years of the four-year period of the suspension of his driver's license.

Proposed law changes the second offense timeframe the interlock device must remain on the offenders vehicle from the first three years of the four-year period of the suspension to the entire four-year period of suspension.

Proposed law provides the Department of Public Safety and Corrections, office of state police promulgate rules and regulations to establish and monitor compliance with an ignition interlock affordability plan for individuals that demonstrate economic hardship who are required to install an ignition interlock device.

Proposed law establishes requirements and provides for payment for individuals who qualify for the "affordability plan" with economic hardship designation.

Proposed law provides an ignition interlock manufacturer or ignition interlock service center shall not refuse service to an individual that has demonstrated eligibility for the affordability plan. Proposed law further provides an individual who has been refused service, may file a complaint with the Department of Public Safety and Corrections, office of state police, applied technology unit and establishes the requirements for the investigation and appeal by an ignition interlock manufacturer or ignition interlock service center.

Proposed law makes technical changes.

Present law provides credit towards suspension time or any reinstatement requirement not be given if the manufacturer reports to the Department of Public Safety and Corrections that any combination or a repeat of two of eight listed violations have occurred in a one-month period.

Proposed law changes the requirements for credit toward suspension from a combination or a repeat of two of eight listed violations, to only one of the eight violations and the occurrence does not have to be a repeat violation.

Proposed law provides upon notice of a violation, the Department of Public Safety and Corrections is required to extend the period the ignition interlock device by an additional six months and further restrict the driver's license.

Present law provides after the first conviction, along with other requirements, a functioning ignition interlock device shall remain installed on the offender's vehicle during the first twelve-month period of the suspension of his driver's license. Proposed law changes the suspension period from the first twelve-month period to the entire period the driver's license is suspended.

Present law provides after the second conviction, along with other requirements, a functioning ignition interlock device shall remain installed on the offender's vehicle during the first three-year period of the four-year period of the suspension of his driver's license. Proposed law changes the suspension period from the first three-year period to the entire four year period the driver's license is suspended.

Present law provides any licensee who has had his license suspended for operating a motor vehicle, under the influence of alcoholic beverages is eligible to apply for a restricted driver's license after a period of twelve months and proof the motor vehicle has been equipped with an ignition interlock device. Proposed law changes the period of eligibility for restricted

license from proof the vehicle has been equipped with an interlocking device and a period of twelve months to no waiting period.

Present law provides an offender shall be eligible for a restricted license after a period of forty-five days of suspension for the remainder of the four-year period of suspension. Proposed law provides a functioning ignition interlock device shall remain installed on his vehicle during the entire four-year period of the suspension.

Effective August 1, 2023.

(Amends R.S. 14:98.1(A)(3)(c) and 98.2(A)(3)(c), R.S. 32:378.2(A), (B)(1)(a)(ii)(aa) and (bb), (H), and (M)(2), and 414(A)(1)(c)(i) and (ii) and (D)(1)(b), 667(B)(1)(b) and (3)(b) and (c), and (I)(1)(a), and 668(B)(1)(a)(intro para); adds R.S. 15:307.1 and R.S. 32:378.2(O))