

Regular Session, 2003

ACT No. 732

HOUSE BILL NO. 1686

BY REPRESENTATIVES DEWITT, CRANE, FUTRELL, KATZ, PITRE,
SHAW, TUCKER, DOWNER, AND MCDONALD AND SENATOR
SCHEDLER

AN ACT

To enact R.S. 17:416.1(D) and R.S. 32:407(E) and 431, relative to drivers' licenses and learners' licenses; to provide for issuance and immediate suspension of a license for one year to a student who is expelled or suspended from school for ten or more consecutive school days for committing certain infractions or who withdraws from school under certain circumstances; to require notification to the office of motor vehicles when a student is expelled or suspended from school or withdraws from school under certain circumstances; to provide for suspension of a driver's license; to require notification of such suspension; to allow reinstatement of driving privileges under certain circumstances; to provide for an appeal process; to provide for hardship; to prohibit an increase in insurance rates due to such license suspension; to provide for the promulgation of rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:416.1(D) is hereby enacted to read as follows:

§416.1. Discipline of pupils; additional disciplinary authority

* * *

D.(1) In addition to the specific disciplinary measures authorized in R.S. 17:416, a principal or headmaster at a public or private school shall notify the Department of Public Safety and Corrections, office of motor vehicles, of any student between the ages of fourteen and eighteen who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection.

(2) As used in this Subsection, "disciplinary action" means an expulsion or suspension from school for ten or more consecutive school days or an assignment to an alternative educational setting for ten or more consecutive school days in accordance with any policy of the school or of the local public school board, limited to expulsions, suspensions, and assignments to alternative educational settings for infractions involving the sale or possession of drugs, alcohol, or any other illegal substance, the possession of a firearm, or an infraction involving assault or battery on a member of the school faculty or staff. The governing authority of any public elementary or secondary school shall promulgate rules and regulations to implement the provisions of this Section.

(3) Any such student who has been subjected to a disciplinary action as provided in Paragraph (2) of this Subsection shall have his driver's license for the operation of a motor vehicle suspended for a period of one year, in accordance with the provisions of R.S. 32:431. The terms "license" or "driver's license" shall include a Class "E" learner's license and intermediate license as provided for in R.S. 32:407.

Section 2. R.S. 32:407(E) and 431 are hereby enacted to read as follows:

§407. Application of minors; revocation; applications of persons less than twenty-one years of age

* * *

E. In addition to any other provision of law, each unemancipated minor who applies for a license, learner's license, or intermediate license for the operation of a motor vehicle and who is between the ages of fifteen and eighteen may be granted such a license if he is otherwise qualified, but such license shall be immediately suspended if the minor is subject to the suspension provided for in R.S. 32:431. The license shall be suspended for the time period provided for in that Section, but the minor may apply for a hardship license pursuant to that Section.

* * *

§431. Driving is a privilege; expulsion or suspension from school, cause for suspension of license

A.(1) As used in this Section, "disciplinary action" means an expulsion or suspension from school for ten or more consecutive school days or an assignment to an alternative educational setting for ten or more consecutive school days in accordance with any policy of the school or of the local public school board, limited to expulsions, suspensions, and assignments to alternative educational settings for infractions involving the sale or possession of drugs, alcohol, or any other illegal substance, the possession of a firearm, or an infraction involving assault or battery on a member of the school faculty or staff. The governing authority of any public elementary or secondary school shall promulgate rules and regulations to implement the provisions of this Section.

(2) As used in this Section, "license" or "driver's license" shall include a Class "E" learner's license and intermediate license as provided for in R.S. 32:407.

B.(1) In addition to any other authority to deny driving privileges, upon receipt of written notification from a principal or headmaster at a public or private school pursuant to R.S. 17:416.1(D), the Department of Public Safety and Corrections shall take the following action with respect to the student if he is an unemancipated minor between fifteen years of age and eighteen years of age:

(a) If the student has a driver's license, the department shall suspend the driver's license for a period of one year beginning as provided for in Subsection C of this Section.

(b) If the student has not obtained a driver's license, or if he applies for a different driver's license, any license which he obtains during the period of one year beginning as provided for in Subsection C of this Section shall be immediately suspended for the duration of such one-year period.

(2) The written notice from the principal or headmaster at a public or private school required in this Subsection shall include a copy of the student's disciplinary documentation and the full name, address, date of birth, social security number, and license number, if available, of the student and the name, address, and telephone number of the student's parents, guardian, or custodial parent.

C.(1)(a) Within fifteen days of receipt of written notice from the principal or headmaster, the department shall send notice of the following by certified mail to the last known address of any student

who is subjected to such disciplinary action and the student's parents, guardian, or custodial parent:

(i) That any license he holds will be suspended on the thirtieth day following the date the notice was sent by the department and that the license shall be returned to the office of motor vehicles within five days of its suspension.

(ii) That if he does not hold a license, any license he may obtain during one year from the thirtieth day of the date the notice was mailed shall be immediately suspended for the remainder of such year.

(b) The notice shall also advise that a special identification card may be obtained from the office of motor vehicles pursuant to R.S. 40:1321. The notice shall also include a notice of the student's right to request a hearing or a hardship license as provided for in Subsections D and F of this Section.

(2)(a) Any period of suspension under this Section shall begin upon the occurrence of the first of the following:

(i) The receipt by the department of the driver's license.

(ii) Thirty days after the date the notice of suspension is mailed to the student by the department as provided in Paragraph (1) of this Subsection, or the receipt of a written notice of the disposition of an application for hardship driving privileges if it was applied for prior to the beginning of the suspension pursuant to Subsection D of this Section, whichever occurs last.

(b) A license suspension shall not extend beyond the student's eighteenth birthday. At the conclusion of the suspension, the department, in its discretion, may return the license to the student or

issue the student a new license, once a reinstatement fee of sixty dollars has been paid to the department.

D. Prior to or after the start of the suspension period, a student may apply to the Department of Public Safety and Corrections for provisional student or family hardship driving privileges upon presentation of appropriate documentation as determined by the office of motor vehicles. Upon approval, a student may receive provisional driving privileges in order to drive to and from school, work, a drug or alcohol treatment counseling program, or a mental health treatment program, as appropriate, when no other transportation is available. Such driving privileges shall not exceed those granted by the license that was suspended.

E. Any student whose license is suspended pursuant to this Section may otherwise be eligible for reapplication or reinstatement if, after six months from the date of denial or suspension, the principal notifies the department in writing that the student has displayed exemplary student behavior at school, has not violated any school policies or been found guilty of any misconduct pursuant to R.S. 17:416 or any policy of the school or of the local public school board, and no further disciplinary measures have been taken.

F. Within fifteen days of the date of the notice required by Subsection C of this Section the student may request an administrative hearing pursuant to the Administrative Procedure Act. The hearing request shall be made in writing to the Department of Public Safety and Corrections, office of motor vehicles, and the hearing shall be held by the Division of Administrative Law pursuant to Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The department shall

promptly forward the hearing request to the Division of Administrative Law, and the hearing shall be held within thirty days of receipt by the department of the hearing request or as soon as practicable, unless continued at the request of the student. At the request of the student, the hearing may be limited to a review of the written record. The sole issue at the hearing shall be whether the provisions of this Section have been met. The reasons for disciplinary action or the propriety of disciplinary action shall not be an issue at the hearing. The license shall not be suspended until completion of the administrative hearing. Failure of the student or his representative to make an appearance at the time and place noticed for the hearing shall constitute a withdrawal of the hearing request and result in the suspension provided for in this Section.

G. No insurer issuing a policy of automobile insurance covering property damages, personal injury, or accidental death shall increase any rate or premium charges for insurance coverage because of any suspension of a license under the provisions of this Section. The provisions of this Subsection shall not be construed to prohibit the increase of any automobile insurance rate or premium, pursuant to a rate increase which is approved by the Louisiana Insurance Rating Commission, for a class of insurance of which the person whose license has been suspended pursuant to this Section.

H. The Department of Public Safety and Corrections shall promulgate all necessary rules and guidelines for the implementation of this Section in accordance with the Administrative Procedure Act as are necessary.

Section 3. This Act shall become effective on January 1, 2004.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____