

Regular Session, 1997

HOUSE BILL NO. 520

BY REPRESENTATIVES DUPRE AND DONELON AND SENATOR  
SHORT

AN ACT

To amend and reenact Code of Criminal Procedure Art. 887(C) and (D), R.S.

14:98(A)(1)(b) and (c), (B)(introductory paragraph), (C)(introductory paragraph), (D), (E), and (F)(1), R.S. 32:411(G), 411.1(D), 414(A)(1)(a), 661(C)(1)(c), 661.1(C)(1)(c), 662(A), 666(A)(introductory paragraph), 667(A)(introductory paragraph) and (3) and (B)(1) and (2), 668(A)(4) and (B)(1)(b), and 853(A)(1)(c)(i), R.S. 40:1379.7, R.S. 44:9(A)(2), and R.S. 46:1805(B)(1) and 1809(B)(4)(e) and to enact R.S. 14:98.1 and R.S. 32:853(A)(1)(d), relative to driving offenses involving alcoholic beverages; to provide with regard to levels of blood alcohol for purposes of certain driving offenses, driver's license sanctions, implied consent law provisions, and certain driving records; to provide for an increase in penalties for commission of the offense of driving while intoxicated; to provide for mandatory imprisonment; to provide for the seizure and sale of the motor vehicle; to provide for the distribution of the proceeds of the sale; to provide that lower blood alcohol levels apply to persons under the age of twenty-one years for purposes of committing the offenses and for purposes of related driver's license sanctions, implied consent law provisions, and certain driving records; to create the offense of underage driving under the influence of alcohol; to provide for definitions and penalties; to allow for participation in certain substance

abuse programs; to provide for requirements of driver improvement programs; to include the offense of underage DUI in provisions relating to defendant's liability for costs and forwarding of costs for maintenance of equipment, notification of vehicle owner, and provisions related to crime victims reparations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 887(C) and (D) are hereby amended and reenacted to read as follows:

Art. 887. Defendant's liability for costs; suspension of costs; no advance costs

\* \* \*

C. In addition to the costs provided in Paragraph A, a person convicted of a violation of R.S. 14:98, R.S. 14:98.1, or of any municipal or parochial ordinance defining the offense of operating a motor vehicle, aircraft, watercraft, vessel, or other motorized means of conveyance under the influence of alcohol or drugs, who was subjected to a blood, breath, or urine analysis for alcohol or any controlled dangerous substance listed in R.S. 40:964, Schedule I, II, III, IV, or V, shall be assessed an additional seventy-five dollars as special costs. Such costs shall be paid in the following manner: twenty-five dollars to the governing authority owning the instrument used to perform the analysis, and fifty dollars to the governing authority whose agency performed the analysis. If the office of state police performed or participated in a blood, breath, or urine analysis for which these costs are assessed, that portion of the costs applicable to the office of state police shall be forwarded to the applied technology unit within the office of state police and forwarded for disposition in accordance with

R.S. 40:1379.7. In the event the person is unable to pay the fine when assessed, the court may allow payment within certain time limits, based on the person's ability to pay such costs.

D. In addition to the costs provided in Paragraphs A and C, a person convicted of a violation of R.S. 14:98, R.S. 14:98.1, or of any municipal or parochial ordinance defining the offense of operating a motor vehicle while under the influence of alcohol or drugs, shall be assessed an additional fifty dollars as special costs to be used to defray expenses of administering conditions of probation or of incarceration. If the offender is incarcerated, such costs shall be paid to the sheriff or other custodian of the facility in which the offender is incarcerated. If the offender is placed on probation as provided in R.S. 14:98(B) or (C) or R.S. 14:98.1(D) or (E), the court may order the apportionment and payment of all or a part of such costs to the agencies or persons responsible for administering the prescribed substance abuse program, driver improvement program, or community service activities. In addition, the person convicted of a violation of R.S. 14:98, R.S. 14:98.1, or of any such municipal or parochial ordinance shall be assessed costs of the witness fee provided by R.S. 15:255.

\* \* \*

Section 2. R.S. 14:98(A)(1)(b) and (c), (B)(introductory paragraph), (C)(introductory paragraph), (D), (E), and (F)(1) are hereby amended and reenacted and R.S. 14:98.1 is hereby enacted to read as follows:

§98. Operating a vehicle while intoxicated

A.(1) The crime of operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when:

\* \* \*

(b) The operator's blood alcohol concentration is 0.10 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood; or

(c) The operator is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964.

\* \* \*

B. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars, and may be imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence shall not be suspended unless:

\* \* \*

C. On a conviction of a second offense, notwithstanding any other provision of law to the contrary, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars, nor more than one thousand dollars, and shall be imprisoned for not less than forty-eight hours and thereafter may be imprisoned for not less than thirty days nor more than six months. Imposition or execution of sentence shall not be suspended unless:

\* \* \*

D. On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years, and shall be fined two thousand dollars. At least six months of the sentence of imprisonment imposed shall be without

benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-approved substance abuse program and/or participate in a court-approved driver improvement program. In addition, the court shall order that the vehicle being driven by the offender at the time of the offense shall be seized and impounded, and sold at auction in the same manner and under the same conditions as executions of writ of seizures and sale as provided in Book V, Title II, Chapter 4 of the Code of Civil Procedure. The vehicle shall be exempt from sale if it was stolen, or if the driver of the vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the vehicle while intoxicated. If this exemption is applicable, the vehicle shall not be released from impoundment until such time as towing and storage fees have been paid. In addition, the vehicle shall be exempt from sale if all towing and storage fees are paid by a valid lienholder. The proceeds of the sale shall first be used to pay court costs and towing and storage costs, and the remainder shall be forwarded to the Council on Automobile Insurance Rates and Enforcement for its use in studying other ways to reduce drunk driving and insurance rates.

E.(1) On a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be sentenced to imprisonment at hard labor for not less than ten nor more than thirty years, and shall be fined five thousand dollars. In addition, the court shall order that the vehicle being driven by the offender at the time of the offense be seized and impounded, and be sold at auction in the same manner and under

the same conditions as executions of writ of seizure and sale as provided in Book V, Title II, Chapter 4 of the Code of Civil Procedure. The vehicle shall be exempt from sale if it was stolen, or if the driver of the vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the vehicle while intoxicated. If this exemption is applicable, the vehicle shall not be released from impoundment until such time as towing and storage fees have been paid. In addition, the vehicle shall be exempt from sale if all towing and storage fees are paid by a valid lienholder. The proceeds of the sale shall first be used to pay court costs and towing and storage costs, and the remainder shall be forwarded to the Council on Automobile Insurance Rates and Enforcement for its use in studying other ways to reduce drunk driving and insurance rates.

(2) At least two years of the sentence shall be imposed without benefit of suspension of sentence, probation, or parole. In the discretion of the court, any additional portion or all of the sentence may be imposed without benefit of suspension of sentence, probation, or parole. If a portion of the sentence is imposed with benefit of suspension of sentence, probation, or parole, the court shall require the offender to participate in a court-approved substance abuse program and a court-approved driver improvement program. If the offender has previously been required to participate in either or both of such programs pursuant to Subsection D of this Section, at least three years of the sentence shall be imposed without benefit of suspension of sentence, probation, or parole. If the offender has previously been required to participate in either or both of such programs under Subsection B or C of this Section, but not under Subsection D, at least two years of the sentence shall be imposed without benefit of

suspension of sentence, probation, or parole. If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth offender, no part of the sentence may be imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

F.(1) For purposes of determining whether a defendant has a prior conviction for violation of this Section, a conviction under either R.S. 14:32.1, vehicular homicide, R.S. 14:39.1, vehicular negligent injuring, or R.S. 14:39.2, first degree vehicular negligent injuring, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state, which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated, while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance shall constitute a prior conviction. This determination shall be made by the court as a matter of law.

\* \* \*

§98.1. Underage driving under the influence

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

B. Any underage person whose blood alcohol concentration is found to be in violation of R.S. 14:98(A)(1)(b) shall be charged under its provisions rather than under this Section.

C. On a first conviction, the offender shall be fined not less than one hundred nor more than two hundred fifty dollars, and participate in a court-approved substance abuse and driver improvement program.

D. On a second or subsequent conviction, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than one hundred fifty dollars nor more than five hundred dollars, and imprisoned for not less than ten days nor more than three months. Imposition or execution of sentence shall not be suspended unless:

(1) The offender is placed on probation with a minimum condition that he serve forty-eight hours in jail and participate in a court-approved substance abuse and driver improvement program; or

(2) The offender is placed on probation with a minimum condition that he perform ten eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program and participate in a court-approved substance and driver improvement program.

E. Court programs regarding substance abuse provided for in Subsections C and D shall include a screening procedure to determine the portions of the program which may be applicable and appropriate for individual offenders.

F. An offender ordered to participate in a substance abuse program shall pay the cost incurred in participating in the program. Failure to make such payment shall subject the offender to revocation

of probation, unless the court determines that the offender is unable to pay.

Section 3. R.S. 32:411(G), 411.1(D), 414(A)(1)(a), 661(C)(1)(c), 661.1(C)(1)(c), 662(A), 666(A)(introductory paragraph), 667(A)(introductory paragraph) and (3) and (B)(1) and (2), 668(A)(4) and (B)(1)(b), and 853(A)(1)(c)(i) are hereby amended and reenacted and R.S. 32:853(A)(1)(d) is hereby enacted to read as follows:

§411. Deposit of license in lieu of security upon arrest; receipt; licensee to have license or receipt in immediate possession; notification to vehicle owner; surrender of license; issuance of temporary permits

\* \* \*

G. When a person is arrested or issued a summons for a violation of R.S. 14:98 or 98.1, the arresting officer shall determine whether the person is the owner of the vehicle used. If the person is not the owner, the arresting officer, his agency of employment, or the Department of Public Safety and Corrections shall take all reasonable measures to identify and locate the registered owner and notify him of the arrest or summons. Such notification may be oral or written. A record shall be kept of whether or not such notification was given.

\* \* \*

§411.1. Licensee to have license in immediate possession; notification to vehicle owner; surrender of license; issuance of temporary permits

\* \* \*

D. When a person is arrested or issued a summons for a violation of R.S. 14:98 or 98.1, the arresting officer shall determine whether the person is the owner of the vehicle used. If the person is

not the owner, the arresting officer, his agency of employment, or the Department of Public Safety and Corrections shall take all reasonable measures to identify and locate the registered owner and notify him of the arrest or summons. Such notification may be oral or written. A record shall be kept of whether or not such notification was given.

\* \* \*

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

A.(1)(a) The department shall suspend the license of any person for a period of ninety days upon receiving, from any district, city, or municipal court, of this state or of any other state, having traffic jurisdiction, or from any federal court or magistrate having traffic jurisdiction, satisfactory evidence of the conviction or of the entry of a plea of guilty or nolo contendere and sentence thereupon or of the forfeiture of bail of any such person charged with the first offense for vehicular negligent injuring, R.S. 14:39.1, or for operating a motor vehicle while under the influence of beverages of high alcoholic content, of low alcoholic content, of narcotic drugs, or of central nervous system stimulants. However, if the offender was under the age of twenty-one years at the time of the offense, the suspension provided for in this Subsection shall be in effect for one hundred eighty days from the date of suspension. The department shall promptly investigate an allegation made by such licensee that the suspension of his driving privileges will deprive him or his family of the necessities of life, or will prevent him from earning a livelihood. If the department so finds, it may reinstate the license of such licensee; however, such suspension and reinstatement shall be considered as a first suspension and grant of restricted driving privileges for the purposes of R.S. 32:415.1, and the

driving privileges of the licensee shall be restricted as provided in R.S. 32:415.1 for a period of ninety days from the date of conviction or the entry of a plea of guilty or nolo contendere and sentence thereupon or of the forfeiture of bail. Notice of the restriction shall be attached to the license.

\* \* \*

§661. Operating a vehicle under the influence of alcoholic beverages or illegal or abused controlled dangerous substances; implied consent to chemical tests; administering of test and presumptions; effect of refusal to submit to tests; informing person of consequences of refusal and his rights; furnishing information to person tested

\* \* \*

C.(1) When a law enforcement officer requests that a person submit to a chemical test as provided for above, he shall first read to the person a standardized form approved by the Department of Public Safety and Corrections. The department is authorized to use such language in the form as it, in its sole discretion, deems proper, provided that the form does inform the person of the following:

\* \* \*

(c) That his driving privileges can be suspended if he submits to the chemical test and such test results show a blood alcohol level of 0.10 percent or above or, if he is under the age of twenty-one years, a blood alcohol level of 0.02 percent or above.

\* \* \*

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

\* \* \*

C.(1) When a law enforcement officer requests that a person submit to a chemical test as provided for in this Section, he shall first read to the person a standardized form approved by the Department of Public Safety and Corrections. The department is authorized to use such language in the form as it, in its sole discretion, deems proper, provided that the form does inform the person of the following:

\* \* \*

(c) That his driving privileges can be suspended if he submits to the chemical test and such test results show a blood alcohol level of 0.10 percent or above or, if he is under the age of twenty-one years, a blood alcohol level of 0.02 percent or above.

\* \* \*

§662. Administering chemical tests; use of results as evidence

A. The chemical test or tests as provided for by this Part shall be subject to the following rules and shall be administered as provided for hereafter:

(1) Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of alcoholic beverages the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

(a) Except as provided in Subparagraph (d), if the person had a blood alcohol concentration at that time 0.05 percent or less by weight, it shall be presumed that the person was not under the influence of alcoholic beverages.

(b) Except as provided in Subparagraph (d), if the person had a blood alcohol concentration at that time in excess of 0.05 percent but less than 0.10 percent by weight, such fact shall not give rise to any presumption that the person was or was not under the influence of alcoholic beverages, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages.

(c) If the person had a blood alcohol concentration at that time of 0.10 percent or more by weight, it shall be presumed that the person was under the influence of alcoholic beverages.

(d) If the person was under the age of twenty-one years at the time of the test and had a blood alcohol concentration at that time of 0.02 percent or more by weight, it shall be presumed that the person was under the influence of alcoholic beverages.

(2) The blood alcohol concentration or level shall be based upon grams of alcohol per one hundred cubic centimeters of blood. Individuals measured through breath shall be afforded the timely option of the administration of a blood test for alcohol content.

\* \* \*

§666. Refusal to submit to chemical test; exception; effects of

A. A person under arrest for a violation of R.S. 14:98, R.S. 14:98.1, or any other law or ordinance that prohibits operating a vehicle while intoxicated may not refuse to submit to a chemical test in any case wherein a traffic fatality has occurred or a person has sustained

serious bodily injury. The law enforcement officer shall direct that a chemical test be conducted in such circumstances. A physician, registered nurse, qualified technician, or chemist shall perform a chemical test in accordance with the provisions of R.S. 32:664 when directed to do so by a law enforcement officer. In all other cases, a person under arrest for a violation of R.S. 14:98, R.S. 14:98.1, or other law or ordinance that prohibits operating a vehicle while intoxicated may refuse to submit to such chemical test, after being advised of the consequences of such refusal as provided for in R.S. 32:661(C), subject to the following:

\* \* \*

§667. Seizure of license; circumstances; temporary license

A. When a law enforcement officer places a person under arrest for a violation of R.S. 14:98, R.S. 14:98.1, or a violation of a parish or municipal ordinance that prohibits operating a vehicle while intoxicated, and the person either refuses to submit to an approved chemical test for intoxication, or submits to such test and such test results show a blood alcohol level of 0.10 percent or above by weight or, if the person is under the age of twenty-one years, a blood alcohol level of 0.02 percent or above by weight, the following procedures shall apply:

\* \* \*

(3) In a case where a person submits to an approved chemical test for intoxication, but the results of the test are not immediately available, the law enforcement officer shall comply with Paragraphs (1) and (2) of this Subsection, and the person shall have ten days from the date of arrest to make written request for an administrative hearing. If after thirty days from the date of arrest the test results have not been

received or if the person was twenty-one years of age or older on the date of arrest and the test results show a blood alcohol level of less than 0.10 percent by weight, then no hearing shall be held and the license shall be returned without the payment of a reinstatement fee. If the person was under the age of twenty-one years on the date of arrest and the test results show a blood alcohol level of less than 0.02 percent by weight, then no hearing shall be held and the license shall be returned without the payment of a reinstatement fee.

\* \* \*

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

(1) If the person submitted to the test and the test results show a blood alcohol level of 0.10 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.

(2) If the person had refused to submit to the test, his driving privileges shall be suspended for one hundred eighty days from the date of suspension on first refusal and five hundred forty-five days from the date of suspension without benefit of eligibility for a hardship license on the second and subsequent refusals occurring within five years of the first refusal. However, if the person was under the age of

twenty-one years at the time of first refusal, his driver's license shall be suspended one hundred eighty days from the date of suspension.

\* \* \*

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

A. Upon suspending the license or permit to drive or nonresident operating privilege of any person or upon determining that the issuance of a license or permit shall be denied to the person, the Department of Public Safety and Corrections shall immediately notify the person in writing and upon his request shall afford him an opportunity for a hearing in the same manner and under the same conditions as is provided in R.S. 32:414 for notification and hearings in the case of suspension of licenses, except that the scope of such a hearing for the purposes of this Part shall cover the following issues:

\* \* \*

(4) Whether he voluntarily submitted to an approved chemical test and whether the test resulted in a blood alcohol reading of 0.10 percent or above by weight, or of 0.02 percent or above if he was under the age of twenty-one years on the date of the test.

\* \* \*

B.(1)

\* \* \*

(b) No person who has refused a chemical test for intoxication is eligible for a restricted license for the first ninety days of the suspension. When a person submits to a chemical test and the results show a blood alcohol level of 0.10 percent or above by weight, or of 0.02 percent or above if the person was under the age of twenty-one

years on the date of the test, he is not eligible for a restricted license for the first thirty days of the suspension.

\* \* \*

§853. Commissioner to furnish operating records; other information; fees; withdrawal of forms or information

A.(1)

\* \* \*

(c) The operating record of a person shall not include those arrests for a first or second violation of any ordinance or statute making criminal the driving of a motor vehicle while under the influence of alcoholic beverages nor shall it include any record of any civil sanction imposed, including the suspension of a license, as a result of such an arrest when any of the following occurs:

(i) The person submitted to an approved chemical test and the test resulted in a blood alcohol reading of less than 0.10 percent by weight, or of less than 0.02 percent by weight, if the person was under the age of twenty-one years on the date of the test, and the person is found not guilty.

\* \* \*

(d) The operating record shall not include those arrests or convictions for a first or second violation of R.S. 14:98.1, if at least two years have elapsed since the date of conviction and the offender has not been convicted of an additional offense for violation of R.S. 14:98 or 98.1. If he has been convicted of one or more of these additional offenses during the two-year period, then the earlier offense shall remain on his record for a period of four years from the date of that conviction.

\* \* \*

Section 4. R.S. 40:1379.7 is hereby amended and reenacted to read as follows:

§1379.7. Public Safety DWI Testing, Maintenance, and Training Fund; uses

When the office of state police has performed or participated in a blood, breath, or urine analysis for which special costs are assessed in accordance with Code of Criminal Procedure Article 887(C) such costs shall be forwarded, on or before the twenty-fifth day of each month following their collection, to the state treasurer for immediate deposit in the state treasury. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, the treasurer shall credit an amount equal to the total amount of such costs received to a special fund which is hereby created in the state treasury and designated as the Public Safety DWI Testing, Maintenance, and Training Fund. The monies in the described fund shall be used solely to fund activities of the office of state police in executing its responsibilities in the purchase and maintenance of equipment and supplies for use in breath, blood, or urine analysis as related to violations of R.S. 14:98 or 98.1; training in the maintenance and usage of testing equipment; and other such related expenses as may be necessary in the efficient and effective administration of those duties. The monies in the fund shall be used only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies in the fund invested by the treasurer shall be

credited to the Public Safety DWI Testing, Maintenance, and Training Fund.

Section 5. R.S. 44:9(A)(2) is hereby amended and reenacted to read as follows:

§9. Records of violations of municipal ordinances and of state statutes classified as a misdemeanor or felony

A. Any person who has been arrested for the violation of a municipal or parish ordinance or for violation of a state statute which is classified as a misdemeanor may make a written motion to the district, parish, or city court in which the violation was prosecuted or to the district court located in the parish in which he was arrested, for expungement of the arrest record, if:

\* \* \*

(2) If prosecution has been instituted, and such proceedings have been finally disposed of by dismissal, sustaining of a motion to quash, or acquittal. If the court finds that the mover is entitled to the relief sought, for either of the above reasons, it shall order all agencies and law enforcement offices having any record of the arrest, whether on microfilm, computer card or tape, or on any other photographic, electronic, or mechanical method of storing data, to destroy any record of arrest, photograph, fingerprint, or any other information of any and all kinds or descriptions. The court shall order such custodians of records to file a sworn affidavit to the effect that the records have been destroyed and that no notations or references have been retained in the agency's central repository which will or might lead to the inference that any record ever was on file with any agency or law enforcement office. The original of this affidavit shall be kept by the court so ordering same and a copy shall be retained by the affiant agency which

said copy shall not be a public record and shall not be open for public inspection but rather shall be kept under lock and key and maintained only for internal recordkeeping purposes to preserve the integrity of said agency's files and shall not be used for any investigative purpose. This Subsection does not apply to arrests for a first or second violation of any ordinance or statute making criminal the driving of a motor vehicle while under the influence of alcoholic beverages or narcotic drugs, as denounced by R.S. 14:98 or 98.1.

\* \* \*

Section 6. R.S. 46:1805(B)(1) and 1809(B)(4)(e) are hereby amended and reenacted to read as follows:

§1805. Crimes to which Chapter applies

\* \* \*

B.(1) For the purposes of this Chapter, the operation of a motor vehicle, boat, or aircraft that results in personal injury or death shall not constitute a crime unless the personal injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft, or was caused by an operator in violation of R.S. 14:98, R.S. 14:98.1, or R.S. 14:100.

\* \* \*

§1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

\* \* \*

B. In making its determination, the following provisions shall apply:

\* \* \*

(4) The board may deny or reduce an award:

\* \* \*

(e) If it finds that the victim was a willing passenger in a motor vehicle, boat, or aircraft that was operated by an individual who was in violation of R.S. 14:98 or 98.1.

\* \* \*

Section 7. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_