

Louisiana RS 30:2531.4

§2531.4. Community service litter abatement work program; establishment; limited liability

A.(1) A "court-approved community service litter abatement program" means a community service litter abatement program that has been approved by the court having jurisdiction over the violation being prosecuted.

(2) Court-approved community service litter abatement work programs may be established in each parish under the administration of the sheriff or parish governing authority. Such program shall supervise* persons ordered to perform community service work collecting or removing litter. The establishing authority shall establish regulations deemed necessary for the management, supervision, and discipline of persons in the program. The program shall provide for the collection and removal of litter from public highways, rights-of-way, parks, roads, beaches, recreational areas, and other public areas within the sheriff's or the parish governing authority's jurisdiction.

B.(1) A community service litter abatement work program may be established by each municipality. The community service litter abatement work program shall be court approved in those municipalities that have a city court; otherwise, the program shall be established by ordinance adopted by the municipality. Such program shall supervise* persons ordered to perform community service work collecting and removing litter within its jurisdiction. The municipality shall establish regulations by ordinance it deems necessary for the management, supervision, and discipline of persons in the program. The program shall provide for the collection and removal of litter from public areas within the jurisdiction.

(2) A municipality may enter into a contractual arrangement with the sheriff or the parish governing authority for any or all services associated with this program.

C. A person who participates in a community service litter abatement work program established pursuant to this Section shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, nor against any employee or agent of such entity, for any injury or loss suffered by him during or arising out of his participation in the program, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its employee or agent. The entity shall not be liable for any injury caused by the individual participating in the program unless the gross negligence or intentional act of the entity or its employee or agent was a substantial factor in causing the injury. No provision hereof shall negate the requirement to provide an offender with necessary medical treatment as statutorily required.

Acts 1998, 1st Ex. Sess., No. 148, §3.

RS 9:2792.8

§2792.8. Limitation of liability; employees of certain nonprofit organizations supervising or coordinating community services

A. As used in this Section:

(1) "Designated nonprofit organization" means a private, nonprofit, tax-exempt organization under Section 501(c)(3), Internal Revenue Code, pursuant to 26 U.S.C. 501(c)(3), which has been designated by the judges of the judicial district or any city or municipal court within which it is located to coordinate or supervise the utilization of the community service of persons sentenced to perform community service as an alternative to incarceration.

(2) "Employee" means a director, officer, trustee, shareholder, or employee of a designated nonprofit organization, whether or not such person is compensated for his services.

(3) "Community service" means work which has been designated by the sentencing judge to be performed as an alternative to incarceration, and which the sentencing judge deems to be worthwhile to the community as a whole.

(4) "Community service workers" means persons convicted of misdemeanors, or felonies under a state or local ordinance not involving violence, and sentenced to perform community service, or persons who have entered a pretrial diversion agreement with a district attorney's office.

B. The state of Louisiana shall hold harmless and indemnify all designated nonprofit organizations for all acts and omissions of any community service worker which result in damage or injury to the same or any other community service worker and for all acts and omissions of any employee of the nonprofit organization which result in damage or injury to any community service worker, unless such damage or injury was caused by the employee's willful or wanton misconduct.

C. An employee of a designated nonprofit organization shall not be individually liable for any act or omission of his own or of any other employee which results in damage or injury to any community service worker, unless such damage or injury was caused by his willful or wanton misconduct, nor shall such employee be liable for any act or omission of any community service worker which results in damage or injury to any other community service worker or any third person whatsoever, unless such damage or injury was caused by the willful or wanton misconduct of such employee.

D. A community service worker shall have no cause of action for damages, except for the payment of medical expenses, against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation therein, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

Acts 1991, No. 682, §1; Acts 1996, 1st Ex. Sess., No. 70, §1, eff. May 10, 1996; Acts 2011, No. 229, §1.

RS 14:98

3. DRIVING OFFENSES

§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:

(a) The operator is under the influence of alcoholic beverages; or

- (b) The operator's blood alcohol concentration is 0.08 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; or
- (d)(i) The operator is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.
- (ii) It shall be an affirmative defense to any charge under this Subparagraph pursuant to this Section that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.
- (e)(i) The operator is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.
- (ii) It shall be an affirmative defense to any charge under this Subparagraph pursuant to this Section that the operator did not knowingly consume quantities of the drug or drugs which substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

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

B.(1) 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 shall be imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence shall not be suspended unless:

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

(b) **The offender is placed on probation with a minimum condition that he perform four 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,** participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender, who participates in a litter abatement or collection program pursuant to this Subparagraph, shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation in the program, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least forty-eight hours of the sentence imposed pursuant to Paragraph (B)(1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (B)(1)(a) or (b) of this Subsection.

(b) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and at least forty-eight hours of the sentence imposed pursuant to Paragraph (B)(1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (B)(1)(a) or (b) of this Subsection.

C.(1) On a conviction of a second offense, notwithstanding any other provision of law to the contrary except as provided in Paragraphs (3) and (4) of this Subsection, 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 thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Nothing herein shall prohibit a court from sentencing a defendant to home incarceration, if otherwise allowed under the provisions of Article 894.2 of the Code of Criminal Procedure. Imposition or execution of the remainder of the sentence shall not be suspended unless:

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

(b) The offender is placed on probation with a minimum condition that he perform thirty 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 abuse program, and participate in a court-approved driver improvement program. An offender, who participates in a litter abatement or collection program pursuant to this Subparagraph, shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation therein, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (1)(a) or (b) of this Subsection.

(b) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined one thousand dollars and at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (1)(a) or (b) of this Subsection.

(3) Notwithstanding the provisions of Paragraph (1) of this Subsection, on a conviction of a second offense when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, 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. Imposition or execution of the remainder of the sentence shall not be suspended unless the provisions of Subparagraph (1)(a) or (b) of this Subsection are complied with.

(4) Notwithstanding the provisions of Paragraph (1) of this Subsection, on a conviction of a second offense when the arrest for the second offense occurs within one year of the commission of the first offense, the offender shall be imprisoned for thirty days without benefit of parole, probation, or suspension of sentence and shall participate in a court-approved substance abuse program and in a court-approved driver improvement program.