

**Louisiana Property and Casualty Insurance Commission  
Auto Ad Hoc Committee Meeting**

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**Thursday, October 24, 2013  
Louisiana Department of Insurance  
Plaza Hearing Room  
1:30 p.m.**

**Minutes**

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**Commission Members Present:** Denise Brignac (representing Commissioner Donelon), J.E. Brignac, Jr., Representative Kirk Talbot, Senator Dan Morrish, Ray Aleman, Jr., Sheriff Greg Champagne, Lou Fey, Michael Guy, Chris Haik, Will Grubb (representing Ted Haik), Ron Henderson, Scott Landry, Ken Trull (representing LTC. John LeBlanc), and Earl Taylor

**Commission Members Absent:** Senator Eric LaFleur, Representative Greg Cromer, Jeff Albright, Lee Ann Alexander, and Steve Campbell

**Commission Staff Present:** Terrell Moss and David Evans

**LDI Staff Present:** Charles Hansberry and Judy Wright

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The Auto Ad Hoc Committee meeting of the Louisiana Property and Casualty Insurance Commission (LPCIC) was called to order at 1:35 p.m. by Chairman J.E. Brignac, Jr.

Mr. Evans called the roll and reported a quorum present.

Mr. Brignac welcomed the committee members and all in attendance. The chairman recognized the vice chairman, Representative Talbot and introduced the four speakers who would discuss issues relating to DWI.

Mr. Joel Chaisson, district attorney of the 29<sup>th</sup> Judicial District and Mr. Bill Starr, assistant district attorney, provided information on changes made to the law concerning the reporting of a plea of Article 894 by a DWI defendant and its unintended effect on reinstatement of unrestricted driving privileges.

An Article 894 allows a defendant to have a conviction set aside by the Court after all the conditions of probation have been successfully completed. However, a 2009 amendment to La. R.S. 32:853 was interpreted to permit driver's license reinstatement with no restrictive ignition interlock requirement at the time the DWI defendant initially pleads Article 894. There was no general knowledge by the District Attorneys or Courts that unrestricted driver's licenses were being restored based upon an Article 894 pleading alone until a recent multiple fatality collision caused by a drunken driver, who was still on Article 894 probation from a previous DWI arrest and who lacked an ignition interlock.

Mr. Chaisson indicated that he would seek the support of the district attorneys, sheriffs, the Governor's DWI Task Force, and others to again make reinstatement of an unrestricted driver's license contingent upon successful completion of probation for those pleading Article 894. He asked the support of the LPCIC, as well.

Lt. George Breedy, a certified drug recognition expert (DRE) with the St. Charles Parish Sheriff's Office, addressed the Commission on law enforcement concerns related to arresting and processing DWIs. His focus was on two of these: the overturning of driver's license suspensions and the growing problem of driving while impaired on drugs.

Lt. Breedy stated that the independence of the civil administrative process of driver's license suspension based on evidence of impairment or for refusal of the breath test is being improperly compromised based on the outcome of the criminal prosecution of the DWI. Suspended driver's licenses are being returned not only upon the pleading of Article 894, as discussed by Mr. Chaisson, but also if the criminal charges are dismissed. Some administrative law judges are returning licenses suspended for refusal when samples are obtained from the arrestee by search warrant, as though there had been voluntary compliance with the Implied Consent Law.

Also many more people arrested for DWI are impaired on drugs or a combination of drugs and alcohol, which Lt. Breedy estimated at 50 percent of arrests. He indicated that part of the solution may be in changing the current law that allows a driver impaired on his prescription medication to successfully defend against the prosecution of DWI if the state cannot prove that the arrestee intentionally took too much of his medication or did not know the medication would cause impairment.

Mr. Kenneth Trull, Deputy Director of the Louisiana Highway Safety Commission (LHSC), elaborated on the driving drug-impaired problem. He noted that the State Police Crime Lab had reviewed two years of traffic-related blood cases that were submitted and confirmed that, statewide, 50 percent of the submissions show the presence of one or more drugs. To further bolster enforcement, the LHSC has pledged funding for two drug recognition expert classes per year until Louisiana has an adequate number of DRE's. Currently, there are only 28 active, certified DRE's in the state.

Development of electronic DWI arrest report system is nearing completion. Mr. Trull anticipated that by the end of the year the reporting system would be introduced as a pilot project in three parishes: Calcasieu, East Baton Rouge, and Lafourche. This electronic system will eventually replace the current paper system and will be made available to all enforcement agencies in the state, together with training, for free. Officers will find that it takes less time to complete the arrest report and with fewer errors. Prosecutors will find that the electronic arrest report provides complete and accurate information to try their DWI cases. The electronic arrest reports will provide improved crash data for statistical reporting at the state and national levels.

Each of the three presentations prompted questions and discussion from the Commission members.

With no further discussion, the chair asked if there were any comments from the public in attendance. When there were none, the chair called for a motion to adjourn which was offered by Mr. Taylor and seconded by Mr. Henderson. The LPCIC meeting adjourned at 2:35 pm.