

§661.2. Operation of a locomotive engine under the influence of alcoholic beverages or controlled dangerous substances; implied consent to chemical tests; administering of test and presumptions

A.(1) Any person who operates a locomotive engine upon the railroad tracks of this state shall be deemed to have given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or other bodily substance for the purpose of determining the alcoholic content of his blood and the presence of any abused or illegal controlled dangerous substance as set forth in R.S. 40:964 in his blood if he is involved in a collision at a railroad crossing at any roadway of this state alleged to have occurred when he was driving or in actual physical control of the locomotive engine while believed to be under the influence of an alcoholic beverage or any abused or illegal controlled dangerous substance as set forth in R.S. 40:964.

(2) The test or tests shall be administered at the direction of the law enforcement officer having reasonable grounds to believe the person to have been operating or in physical control of the locomotive engine while under the influence of either an alcoholic beverage or any abused or illegal controlled dangerous substance as set forth in R.S. 40:964. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered.

B. Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal or who has been involved in a railroad crossing collision involving bodily injury or death shall be deemed not to have withdrawn the consent provided by Subsection A of this Section, and the test or tests may be administered subject to the provisions of R.S. 32:662.

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:

(a) His constitutional rights under *Miranda v. Arizona* and subsequent applicable jurisprudence.

(b) The consequences of his refusal to submit to the chemical test.

(c) The name and employing agency of all law enforcement officers involved in the detention, investigation, or arrest of the person.

(2) In addition, the law enforcement officer, after reading the form, shall request the arrested person to sign the form. If the person is unable or unwilling to sign, the officer shall certify that the arrestee was advised of the information contained in the form and that the person was unable to sign or refused to sign.

D. If a person refuses the request of the law enforcement officer to submit to a chemical test offered pursuant to the provisions of this Section, a test shall not be given without a court order. A written report shall be forwarded by the enforcement officer to the United States Department of Transportation. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime pursuant to the provisions of R.S. 14:98 and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal.

Acts 1998, 1st Ex. Sess., No. 81, §1.