

2021 Regular Session

SENATE BILL NO. 190

BY SENATOR SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRANSPORTATION/DEV DEPT. Transfers stationary weight enforcement to DOTD.
(7/1/22)

1 AN ACT
2 To amend and reenact R.S. 32:1(1), (10), and (108), (2)(D), (3)(C), 388(A)(3) and (4), the
3 introductory paragraph of (B)(1)(a), (B)(4)(a), (F), and (G), 388.1, 389, and
4 392(A)(1), R.S. 36:409(C)(8), R.S. 40:1379.8, and R.S. 47:511.1(B), (C), (D), and
5 (E), 516(A), (B)(2), and (D), 718(B)(1) and (C) and 812(C), to enact R.S.
6 32:1(108.1) and (2)(B) and (C) and R.S. 36:408(B)(3), and to repeal R.S. 32:2(E),
7 388(C)(3), and Sections 6 through 14 of Act No. 320 of the 2010 Regular Session of
8 the Legislature; relative to weights and standards; to transfer the operation and
9 maintenance of stationary weight enforcement scale locations from the Department
10 of Public Safety and Corrections to the Department of Transportation and
11 Development; to provide for authority of the Department of Transportation and
12 Development; to provide for the authority of the Department of Public Safety and
13 Corrections; to provide for definitions; to provide for fines and payments; to provide
14 for enforcement, payment, and collections procedures; to provide for administrative
15 review; to provide for transition; to provide for an effective date; and to provide for
16 related matters.

17 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 32:1(1), (10), and (108), (2)(D), (3)(C), 388(A)(3) and (4), the
2 introductory paragraph of (B)(1)(a), (B)(4)(a), (F), and (G), 388.1, 389, and 392(A)(1) are
3 hereby amended and reenacted and R.S. 32:1(108.1) and (2)(B) and (C) are hereby enacted
4 to read as follows:

5 §1. Definitions

6 When used in this Chapter, the following words and phrases have the
7 meanings ascribed to them in this Section, unless the context clearly indicates a
8 different meaning:

9 (1) "Authorized emergency vehicle" means a vehicle of a fire department, a
10 vehicle of the department's weights and standards police force, a police vehicle, a
11 private vehicle, a privately owned vehicle belonging to members of an organized
12 volunteer fire department or fire district when so designated or authorized by the fire
13 chief of that fire department or fire district, an industrial-owned vehicle assigned to
14 members of a fire department or fire district when so designated or authorized by the
15 fire chief of that fire department or fire district, a vehicle parked or stopped by
16 elevator repair or construction personnel while responding to an elevator emergency,
17 such as ambulances and emergency medical response vehicles certified by the
18 Department of Health and Hospitals that are operated by certified ambulance
19 services, and emergency vehicles of municipal departments or public service
20 corporations as are designated or authorized by the secretary of the Department of
21 Transportation and Development or by the chief of police of any incorporated
22 municipality. For purposes of this Section, elevator repair shall be limited to those
23 elevators that move people.

24 * * *

25 (10) "Commissioner" means the ~~deputy~~ secretary of the Department of Public
26 Safety and Corrections, ~~public safety services~~.

27 * * *

28 (108) "Weights and standards stationary scale police officer" means an
29 employee of the Department of ~~Public Safety and Corrections, public safety services~~

1 of these laws and regulations, and in that regard, shall have the same authority
 2 and powers conferred by law upon other law enforcement officers of this state;
 3 however, no member of the Weights and Standards Stationary Scales Police
 4 Force shall be authorized to carry a weapon until the member has received
 5 P.O.S.T. certification training.

6 D. The department **Department of Transportation and Development** shall
 7 have sole authority over the issuance of special permits as set forth in R.S. 32:387.
 8 ~~The commissioner may facilitate the issuance of permits by the department's truck~~
 9 ~~permit office to place a vehicle or load in compliance with law.~~

10 E. ~~The commissioner shall provide the personnel and equipment required to~~
 11 ~~fully implement the provisions of the Louisiana Truck Center, Part VI-B of Chapter~~
 12 ~~1 of Title 32 of the Louisiana Revised Statutes, as it relates to the assessment and~~
 13 ~~collection of fees and taxes of this department. Any money made available and~~
 14 ~~received from the Federal Highway Administration, or from any other entity for the~~
 15 ~~purpose of maintaining, improving, or upgrading the stationary or mobile scales shall~~
 16 ~~be used solely for such purpose. The commissioner shall be responsible for~~
 17 ~~maintenance of the buildings and grounds and the stationary scales at stationary scale~~
 18 ~~locations. The department shall be responsible for the maintenance of the roadways~~
 19 ~~and parking lots at the stationary scale locations.~~

20 §3. Authority of Department of Public Safety and Corrections

21 * * *

22 C. ~~The Weights and Standards Police Force is hereby created within the~~
 23 ~~Department of Public Safety and Corrections, public safety services. It may enforce~~
 24 ~~the provisions of R.S. 32:380 through 388.1, R.S. 32:390, R.S. 47:718, Chapter 4 of~~
 25 ~~Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, the access laws and~~
 26 ~~regulations relative to controlled access highways, and certain other specified~~
 27 ~~statutes and regulations determined by the deputy secretary of the Department of~~
 28 ~~Public Safety and Corrections, public safety services. Members of the Weights and~~
 29 ~~Standards **Mobile** Police Force ~~may be~~ **are** authorized to carry weapons and to make~~

1 arrests in the enforcement of these laws and regulations and ~~may~~ have the same
 2 authority and powers conferred by law upon other law enforcement officers of ~~the~~
 3 ~~Department of Public Safety and Corrections upon being duly commissioned as a~~
 4 ~~peace officer by the deputy secretary of the Department of Public Safety and~~
 5 ~~Corrections, public safety services~~ **the state**; however, no member of the Weights
 6 and Standards **Mobile** Police Force shall be authorized to carry a weapon until the
 7 member has received P.O.S.T. certification training and has been duly commissioned
 8 as a peace officer by the deputy secretary of the Department of Public Safety and
 9 Corrections, public safety services.

10 * * *

11 §388. Penalties; payments

12 A. * * *

13 (3) Each vehicle that is required to stop at a **department stationary** weight
 14 enforcement scale location and ~~which~~ **that** fails to stop shall be assessed the
 15 following penalty:

16 (a) Vehicles with a gross vehicle weight rating of less than twenty-six
 17 thousand pounds shall be ~~penalized~~ **fined** one hundred dollars for failure to stop at
 18 ~~a weight scale~~ **the department stationary weight scales**. This ~~penalty~~ **fine** shall be
 19 in addition to any other ~~penalties~~ **fine** which may be assessed for other violations.

20 (b) Vehicles with a gross vehicle weight rating of twenty-six thousand
 21 pounds or more shall be ~~penalized~~ **fined** five hundred dollars for failure to stop at a
 22 ~~weight scale~~ **the department stationary weight scales**. This ~~penalty~~ **fine** shall be
 23 in addition to any other ~~penalties~~ **finer** which may be assessed for other violations.

24 (4) Any vehicle which inadvertently bypasses **the department stationary**
 25 **weight scales** and returns to the scales voluntarily without the assistance of law
 26 enforcement shall not be assessed any penalty for bypassing the ~~scale~~ **scales**.

27 B.(1)(a) Except as provided in Subparagraphs (b) and (c) **of this Paragraph**,
 28 whoever owns or operates any vehicle or combination of vehicles in violation of any
 29 rule, regulation, directive, or requirement **of the secretary** adopted under R.S.

1 32:386 or in violation of R.S. 32:386 shall be required to reduce the load to the
2 maximum permissible gross weight and shall be assessed a penalty on such weight
3 which exceeds the maximum permissible gross weight as defined by R.S. 32:386 or
4 maximum allowable axle weights, whichever results in the higher fine, in accordance
5 with the following schedule:

6 * * *

7 (4)(a) Whoever owns any business entity engaged in the sale or shipment of
8 construction aggregates requiring a weigh master, not including asphalt, or transfer
9 sales or shipment from rail, barge, or ship to wholesale stockpiles or inventories
10 within a five-mile radius of the point where the shipment was transferred, who
11 violates, or whose driver or contract driver violates any rule, regulation, directive,
12 or requirement **of the secretary** adopted under R.S. 32:386 or violates R.S. 32:386
13 shall also be assessed a separate penalty for each violation in accordance with the
14 schedule set forth in Paragraph B(1) of this ~~Section~~ **Subsection**. However,
15 notwithstanding any other provision of this Chapter or any law to the contrary, any
16 such business, or weigh master thereof, who releases a vehicle that is within the
17 maximum permissible gross weight limitations for travel on a state highway shall not
18 be assessed any penalty when said vehicle is found in violation of gross maximum
19 weight limitations while traveling on any interstate highway. For purposes of
20 enforcing this Subsection, any weights and standards or state policeman having
21 reason to believe that such owner is in violation of R.S. 32:386 is authorized to enter
22 and go upon, without formal warrant, any vehicle, stand, place, building, or
23 premises, for the purpose of inspecting only the shipping ticket or tickets issued in
24 connection with the particular load found in violation of R.S. 32:386 by any weights
25 and standards ~~or state policeman~~ **police** in order to determine whether such sales at
26 the origin of shipment contain the amounts represented and are offered for sale or
27 sold in a manner in accordance with law. The discovery of an overweight vehicle
28 after proper weighing shall constitute "reason to believe" for purposes of this
29 Subsection.

* * *

C.

* * *

~~(3) Nothing contained in this Subsection shall authorize the commissioner or any weights and standards or state policeman to assess any penalty provided for herein for both the failure to possess a required special permit and for operating a vehicle in violation of R.S. 32:386 when arising out of the same activity, and to this extent the penalties provided for in this Subsection shall not be cumulative in nature.~~

* * *

F. Payments for penalties imposed by the **Department of Transportation and Development and the** Department of Public Safety and Corrections, ~~public safety services~~, shall be remitted to the Transportation Trust Fund. However, any payments for citations for weight limit violations on parish roads in a parish shall be paid to the public works department of said parish.

G.(1) All ~~such~~ penalties collected by **the secretary and** the commissioner shall be paid into the state treasury on or before the twenty-fifth day of each month following their collection and, in accordance with ~~Article VII, Section 9 of the Constitution of Louisiana~~ **La. Const. Art. VII, Sec. 9**, shall be credited to the Bond Security and Redemption Fund. However, after a sufficient amount of the penalties collected by **the secretary and** the commissioner is allocated from the fund to pay all obligations secured by the full faith and credit of the state within any fiscal year, the treasurer shall pay an amount equal to the fees paid into the Bond Security and Redemption Fund pursuant to this Paragraph into the Transportation Trust Fund created under ~~Article VII, Section 27 of the Constitution of Louisiana~~ **La. Const. Art. VII, Section 27**.

(2) The Department of Public Safety and Corrections, public safety services **Department of Transportation and Development**, shall keep a set of books showing from whom every dollar is paid and for what purpose. It also shall keep in its file vouchers or receipts for all monies paid out.

§388.1. Penalties; multiple violations

1 conditions of a special permit issued under R.S. 32:387 or regulations of the
2 department or secretary adopted pursuant to this Part is authorized to stop such
3 vehicle or combination of vehicles and to inspect or measure such vehicle or to
4 require that such vehicle be driven to the nearest available location equipped with
5 facilities to inspect or measure such vehicle, provided that any state policeman
6 having reason to believe that any vehicle or combination of vehicles exceeds or is in
7 violation of the provisions of R.S. 32:386, any overweight special permit as provided
8 in R.S. 32:387, or the department's regulations adopted pursuant thereto, may escort
9 such vehicle to the nearest permanent or portable scale operated by the department's
10 weights and standards police force, where a weights and standards police officer
11 shall weigh such vehicle and if such vehicle is overweight, is in violation of an
12 overweight special permit, or the department's or secretary's regulations adopted
13 pursuant thereto, shall issue a violation ticket in accordance with Subsection C of this
14 Section.

15 C.(1) Whenever any carrier, common carrier, contract carrier, private carrier,
16 transport vehicle, or driver is found in violation of any provision of this Chapter, the
17 commissioner or secretary shall send the responsible party a "Notice of Violation,
18 Proposed Finding and Proposed Civil Penalty", hereafter referred to as a "notice of
19 violation", within thirty calendar days of the violation.

20 (2)(a) Each notice of violation shall clearly indicate if a monetary penalty is
21 assessed for the violation or if the notice of violation is only a warning. When a
22 monetary penalty is assessed, each notice of violation shall be sent to the responsible
23 party by certificate of mailing. Such notice of violation shall also contain notice that
24 the responsible party shall have forty-five calendar days from the date of issuance
25 of the notice of violation to either pay the monetary penalty for the violation or to
26 request, in writing, an administrative hearing to review the notice of violation. When
27 the amount of the civil penalty is negotiated between the commissioner or secretary
28 and the responsible party, the commissioner or secretary shall send written
29 notification to the responsible party of the amount of the negotiated civil penalty

1 within thirty calendar days of the date of the final negotiation. Such payment shall
2 be made by certified check, money order, or credit card. If made by credit card, the
3 payment shall be deemed received by the commissioner **or secretary** when tendered
4 and an approval code is obtained from the credit card company or credit card
5 processor.

6 (b) The commissioner **or secretary** shall adopt rules and regulations in
7 accordance with the Administrative Procedure Act, subject to oversight by the House
8 and Senate committees on transportation, highways and public works as are
9 necessary regarding the administrative hearing, including but not limited to rules and
10 regulations regarding notification and the procedure for requesting a hearing
11 provided such rules shall not conflict with the provisions of R.S. 32:388.1.

12 (3) If the commissioner **or secretary** fails to issue the notice of violation to
13 the responsible party within thirty calendar days of the violation in accordance with
14 the provisions of this Section, the violation shall be dismissed. However, the
15 commissioner **or secretary** shall be granted an additional sixty calendar days to send
16 the responsible party a notice of violation in accordance with the provisions of this
17 Section if he experiences a data system failure caused by either an act of God or an
18 intentional act of sabotage.

19 (4) Any appeal of the findings of the administrative law judge shall be filed
20 in a state district court with proper venue over the matter.

21 D.(1) If a carrier is determined to be the responsible party for a notice of
22 violation by the commissioner **or secretary** and, if ~~such~~ **the** carrier fails to pay the
23 assessed penalty within forty-five calendar days of issuance of the notice of
24 violation, or in the case of an administrative hearing, the responsible party fails to
25 pay the assessed fine within thirty calendar days of receiving a notice of final
26 judgment from the administrative law judge, the outstanding penalty amount shall
27 be posted on the commissioner's **or secretary's** official web site. The outstanding
28 penalty amount for such responsible party shall continue to appear on the web site
29 until all fines and fees are paid in full. The commissioner **or secretary** shall transmit

1 the vehicle identification number of the offending vehicle for which the notice of
2 violation was written to the office of motor vehicles. The office of motor vehicles
3 shall not renew the registration of the offending vehicle until all fines and fees
4 associated with the notice of violation have been paid in full. Within seven calendar
5 days of receiving documentation from the responsible party that all fines and fees
6 have been paid in full, the commissioner **or secretary** shall remove the posting of
7 the notice of violation from his web site. Additionally, upon payment of all fines and
8 fees associated with the notice of violation, the office of motor vehicles shall
9 immediately authorize renewal of the vehicle's registration. Such payment shall be
10 made by certified check, money order, or credit card. If made by credit card, the
11 payment shall be deemed received by the commissioner **or secretary** when tendered
12 and an approval code is obtained from the credit card company or credit card
13 processor.

14 (2) If the driver of a motor vehicle is found to be the responsible party for a
15 notice of violation by the commissioner **or secretary**, the driver shall be responsible
16 for the payment of all fines and fees associated with issuance of the notice of
17 violation. Such payment shall be made by certified check, money order, or credit
18 card. If made by credit card, the payment shall be deemed received by the
19 commissioner **or secretary** when tendered and an approval code is obtained from the
20 credit card company or credit card processor. If the commissioner **or secretary** fails
21 to receive payment within forty-five calendar days of issuance of the notice of
22 violation, or in the case of an administrative hearing, the responsible party fails to
23 pay the assessed penalty within thirty calendar days of receiving a notice of final
24 judgment from the administrative law judge, the commissioner **or secretary** shall
25 transmit the driver's license number to the office of motor vehicles. Upon receipt of
26 the driver's license number, the office of motor vehicles shall immediately notify the
27 driver, by first class mail, that his driver's license shall be suspended thirty calendar
28 days after the date of mailing the notice unless all fines and fees associated with the
29 notice of violation or final judgment from the administrative law judge are paid in

1 full together with notice of the imposition of a fifty-dollar fee by the office of motor
2 vehicles to cover its administrative costs. The driver's license shall remain suspended
3 until all fines and fees associated with the notice of violation or final judgment from
4 the administrative law judge and the fifty-dollar fee for the office of motor vehicles
5 are paid in full. Upon payment of all fines and fees, the office of motor vehicles shall
6 immediately authorize the reinstatement of the driver's license.

7 (3) Motor carriers shall not be responsible for driver violations.

8 E.(1) The commissioner **or secretary** and any law enforcement officer
9 working for the commissioner **or secretary** shall be prohibited from seizing a motor
10 vehicle or the registration license plate of a motor vehicle for failing to pay a fine for
11 a notice of violation.

12 (2) In the event a motor vehicle for which a notice of violation has been
13 issued is subsequently sold, the new owner of such vehicle shall not be responsible
14 for any outstanding fines or fees associated with a notice of violation. The new
15 owner of the motor vehicle shall present proper documentation to the commissioner
16 **or secretary** evidencing the lawful transfer of ownership.

17 F. During a state of emergency declared by the governor, the commissioner
18 **or secretary** shall be granted an additional sixty calendar days to send the
19 responsible party a notice of violation in accordance with the provisions of this
20 Section. Such extension of time shall terminate not later than sixty days from the
21 date the state of emergency ends.

22 G. Notwithstanding the provisions of this Section, any member of the armed
23 forces, who is in uniform or presents an order for duty and who is operating a
24 military vehicle in the line of duty in violation of any provision of R.S. 32:380
25 through R.S. 32:387, or any regulation adopted pursuant thereto, shall not be
26 required to pay the penalty assessed, nor shall ~~such~~ **the** member be required to
27 surrender his Louisiana driver's license. However, the owner of the vehicle or the
28 federal government shall pay the penalty within ~~thirty~~ **forty-five** days.

29 H. The failure of any vehicle or combination of vehicles to stop at a weigh

1 facility may be excused if stopping the vehicle or combination of vehicles creates a
 2 serious traffic hazard. The commissioner or secretary shall promulgate rules under
 3 the provisions of the Administrative Procedure Act to implement the provisions of
 4 this Subsection. ~~Such~~ **These** rules shall define "serious traffic hazard" and shall
 5 authorize the use of green traffic signal lights to allow vehicles to pass the weigh
 6 facility at ~~such~~ times as vehicles have accumulated on the entrance ramp to the weigh
 7 facility to the extent that the vehicles present a traffic hazard. Rules previously
 8 adopted by the department shall remain in full force and effect until such time as the
 9 commissioner or secretary promulgates rules pursuant to this Subsection. ~~Rules~~
 10 ~~adopted hereunder~~ **These rules** shall be subject to oversight by the House and Senate
 11 committees on transportation, highways and public works.

12 * * *

13 §392. Impounding of vehicles; prohibitions

14 A.(1) Upon discovery of any vehicle operated in violation of this Chapter, the
 15 vehicle shall not be impounded but ~~shall~~ **may** be directed to and followed by the
 16 weights and standards police officer or state policeman to the nearest appropriate
 17 place suitable for unloading to its licensed gross weight or maximum size
 18 requirements as provided in this Chapter and storage of said product to preserve it
 19 for its intended use in commerce and in either case shall be detained or unloaded at
 20 the expense and responsibility of the owner or driver. The ~~commissioner~~
 21 **department** shall not detain or impound any vehicle issued a violation ticket for any
 22 violation of the provisions of R.S. 32:380 through 387 prior to the final disposition
 23 of the violation ticket. **For purposes of this Section, "final disposition" shall be**
 24 **defined as a final decision, not capable of appeal or review.**

25 * * *

26 Section 2. R.S. 36:409(C)(8) is hereby amended and reenacted and R.S. 36:408(B)(3)
 27 is hereby enacted to read as follows:

28 §408. Offices; purposes and functions

29 * * *

1 immediate purchase of license and registration, a **Department of Transportation**
 2 **and Development** stationary weights and standards ~~police~~ **scales enforcement**
 3 officer may issue a violation ticket in the amount of seventy-five dollars, in addition
 4 to any overweight penalties due as provided by R.S. 32:388, to any operator
 5 possessed of an improper Louisiana license and registration.

6 * * *

7 D. Whoever violates his promise to appear, purchase license plate and
 8 registration and pay any penalty assessed under Subsections B and C of this section
 9 shall be punished by a fine of not more than five hundred dollars, or by
 10 imprisonment for not more than ninety days, or both, and the driver's license or
 11 license plate shall be forwarded to the ~~commissioner~~ **Department of Public Safety**
 12 for suspension, revocation, and cancellation.

13 * * *

14 §718. Gasoline or motor fuel imported in a vehicle's reservoir and used within this
 15 state

16 * * *

17 B.(1) In order to enforce the provisions of this Section, the secretary or his
 18 authorized representative, or any commissioned officer employed by the ~~Department~~
 19 ~~of Public Safety and Corrections, public safety services,~~ **office of state police or by**
 20 **the Department of Transportation and Development** is empowered to stop any
 21 motor vehicle which appears to be operating with gasoline or motor fuel for the
 22 purpose of examining the invoices and for such other investigative purposes
 23 reasonably necessary to determine whether the vehicle is being operated in
 24 compliance with the provisions of this Section.

25 * * *

26 C. All penalties collected for violation of this Section shall be paid to the
 27 ~~deputy~~ secretary of the Department of Public Safety and Corrections, ~~public safety~~
 28 ~~services,~~ **or the Department of Transportation and Development, whichever**
 29 **agency issued the violation ticket,** who shall pay said penalties into the state

1 treasury on or before the twenty-fifth day of each month following their collection
 2 and, in accordance with Article VII, Section 9 of the Constitution of Louisiana shall
 3 be credited to the Bond Security and Redemption Fund. After a sufficient amount is
 4 allocated from that fund to pay all obligations secured by the full faith and credit of
 5 the state which become due and payable within any fiscal year, the treasurer shall
 6 pay an amount equal to the fees paid into the Bond Security and Redemption Fund
 7 pursuant to this Subsection into the Transportation Trust Fund.

8 * * *

9 §812. Violations; cargo tank to carburetor connection; operation without
 10 speedometer or hub meter; operation without name and address on
 11 trucks; invoice

12 * * *

13 C. All specific penalties collected by the Department of Public Safety and
 14 Corrections, ~~public safety services,~~ **or the Department of Transportation and**
 15 **Development** in accordance with this Part shall be paid to the ~~deputy~~ secretary of the
 16 Department of Public Safety and Corrections, ~~public safety services,~~ **or the**
 17 **Department of Transportation and Development, whichever agency issued the**
 18 **violation ticket or notices,** who shall pay said penalties into the state treasury on or
 19 before the twenty-fifth day of each month following their collection and, in
 20 accordance with Article VII, Section 9 of the Constitution of Louisiana, such funds
 21 shall be credited to the Bond Security and Redemption Fund. **After a sufficient**
 22 **amount is allocated from that fund to pay all obligations secured by the full**
 23 **faith and credit of the state which become due and payable within any fiscal**
 24 **year, the treasurer shall pay an amount equal to the fees paid into the Bond**
 25 **Security and Redemption Fund pursuant to this Subsection into the**
 26 **Transportation Trust Fund.**

27 Section 5. R.S. 32:2(E), 388 (C)(3), and Sections 6 through 14 of Act No. 320 of the
 28 2010 Regular Session of the Legislature are hereby repealed.

29 Section 6. The items that are currently necessary to the duties and responsibilities

1 currently performed by the Department of Public Safety and Corrections, public safety
2 services for carrying out the functions, duties, and responsibilities of the previously
3 constituted Weights and Standards Stationary Scales Police Force are transferred to the
4 Department of Transportation and Development.

5 Section 7. All rules and regulations adopted or permits, licenses, registrations,
6 variances, or orders issued by the effective date of this Act shall continue in full force unless
7 otherwise revoked, repealed, amended, modified, or terminated in accordance with law.
8 However, the secretary of the Department of Transportation and Development shall act to
9 adopt such rules and regulations as are necessary to the function of the Weights and
10 Standards Police Force.

11 Section 8. Any legal proceeding, the statutory provisions for which are amended or
12 repealed by the provisions of this Act, to which any agency or office is a party and that is
13 filed, initiated, or otherwise pending before any court or hearing agency on the effective date
14 of this Act, and all documents involved or affected by said legal proceeding shall retain their
15 effectiveness and shall be continued in the name of the former agency. All further legal
16 proceedings shall be in the name of the original party agency and the Department of
17 Transportation and Development shall be substituted for the original party agency without
18 the necessity for amendment of any document to substitute the name of the department or
19 the name or title of any subdivision or section of the department.

20 Section 9. All civilian employees engaged in the performance of the functions of the
21 Weights and Standards Stationary Scales Police Force, the provisions of which are amended
22 or transferred by this Act, are hereby assigned to the Department of Transportation and
23 Development and, shall insofar as practicable and necessary continue to perform duties
24 heretofore assigned, subject to applicable state civil service laws, rules, and regulations.

25 Section 10. The provisions of this Act shall not be construed in any manner that will
26 impair the contractual or other obligations of any agency, office, or department of this state.

27 Section 11. Any reference to the Weights and Standards Stationary Scales Police
28 Force or Weights and Standards Mobile Police Force, in any provision of law, including but
29 not limited to provisions of Chapters 4 and 7 of Subtitle II of Title 47 of the Louisiana

1 Revised Statutes of 1950, shall be understood to refer to the Weights and Standards Police
2 Force of the Department of Transportation and Development and the Louisiana State Law
3 Institute shall make the necessary statutory changes in order to comply with the provisions
4 of this Section.

5 Section 12. All rules and regulations promulgated by the Department of
6 Transportation and Development relative to weight enforcement, payment, and collection
7 procedures shall be adopted in accordance with the provisions of the Louisiana
8 Administrative Procedure Act. These rules and regulations shall make reference to the
9 Sections or Subsections which they may interpret or apply.

10 Section 13. This Act shall become effective on July 1, 2022.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Xavier I. Alexander.

DIGEST

SB 190 Engrossed

2021 Regular Session

Smith

Proposed law transfers the operation and maintenance of the stationary weight enforcement scale locations from the Department of Public Safety and Corrections (DPS&C) to the Department of Transportation and Development (DOTD).

Present law defines "commissioner" and "weights and standards stationary scale police officer".

Proposed law defines commissioner as the secretary of the Department of Public Safety and Corrections.

Proposed law changes "weights and standards police officer" to "weights and standards stationary police officer".

Proposed law defines weights and standards mobile police officer.

Present law authorizes the DPS&C to enforce certain provisions of law relating to trucks, trailers, and semi-trailers.

Present law provides that DOTD shall enforce certain provisions of law and the regulations adopted on all highways of this state within its jurisdiction and shall exercise such other power and authority as authorized by law.

Proposed law retains present law and transfers operation and maintenance of all stationary weight enforcement scale locations from DPS&C to DOTD.

Present law provides that DOTD shall have sole authority over the issuance of special permits as provided by law.

Proposed law retains present law and authorizes DOTD to facilitate the issuance of permits by DOTD's truck permit office to place a vehicle or load in compliance with law.

Proposed law creates the Weights and Standards Stationary Scales Police Force within DOTD. Authorizes the police force to enforce certain provisions of law, the access laws and regulations relative to controlled access highways and certain other laws and regulations as determined by the secretary of DOTD.

Proposed law removes the requirement of the commissioner to provide the personnel and equipment to fully implement the provisions to collect fees and taxes.

Proposed law provides that when any vehicle is in violation of any provision of the Part, the driver shall be issued a violation ticket.

Present law provides for collection procedure; provides violations are penalties, rather than fines, to reflect civil nature; provides for notice of violation and civil penalty or warning to responsible party within 30 days of violation; provides 45 day period to pay the penalty or to request an administrative hearing; provides for payment by certified check, money order, or credit card; credit card payments are deemed received when approval code is obtained; provides for dismissal of violation if commissioner or secretary fails to issue a notice of violation to the responsible party in 30 calendar days of date of violation; extends notice period for 60 calendar days due to data system failure by act of God or intentional act of sabotage or during state of emergency declared by governor; provides for appeal of findings of an administrative law judge in state district court of proper venue; provides for posting of unpaid penalties after 45 days on the commissioner's or secretary's website until paid and notice to office of motor vehicles who shall not renew vehicle registration until penalties and fees are paid; provides for suspension of driver's license where the driver is the responsible party; provides for notice of suspension of license within 30 days unless all penalties and fees are paid; provides for a \$50 fee to OMV to cover administrative cost; provides that motor carriers shall not be responsible for driver violations.

Present law provides that any vehicle operated in violation of this Chapter shall be impounded.

Proposed law provides that any vehicle operated in violation of this Chapter may be impounded and the department shall not detain or impound any vehicle issued a violation if the owner or driver is a resident of Louisiana or has a domicile in Louisiana or has paid the penalty or posted the bond in accordance with R.S. 32:389(C).

Proposed law provides that within the office of state police there shall be a Weights and Standards Mobile Police Force to enforce functions related to R.S. 32:380 - 388.1, R.S. 32:390, and R.S. 47:718.

Present law provides that all penalties collected by the commissioner shall be paid into the state treasury on or before the 25th day of each month, following their collection, to be credited to the Bond Security and Redemption Fund.

Proposed law retains present law and provides that all penalties collected by the commissioner or secretary of the Department of Transportation and Development and after a sufficient amount is allocated from the Bond Security and Redemption Fund, the treasurer shall pay an amount equal to the fees paid into the Bond Security and Redemption Fund into the Transportation Trust Fund.

Present law provides for DOTD to promulgate rules and oversight of rules by the House and Senate committees on transportation, highways, and public works.

Proposed law provides transition provisions for the transfer of functions from DPS&C to DOTD.

Effective July 1, 2022.

(Amends R.S. 32:1(1),(10) and (108), 2(D), 3(C), 388(A)(3) and (4), (B)(1)(a)(intro para), (B)(4)(a), (F), and (G), 388.1, 389, and 392(A)(1), and R.S. 36:409(C)(8), R.S. 40:1379.8, and R.S. 47:511.1(B), (C), (D), and (E), 516(A), (B)(2), and (D), 718(B)(1) and (C) and 812(C); adds R.S. 32:1(108.1) and 2(B) and (C) and R.S. 36:408(B)(3); repeals R.S. 32:2(E), 388(C)(3), and Sections 6-14 of Act No. 320 of the 2010 R.S.)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,
Highways, and Public Works to the original bill

1. Makes technical amendments.
2. Include the secretary for collection procedures.
3. Change the number of days of payment from 30 daysto45 days.
4. Defines "final disposition".