

2020 Regular Session

SENATE BILL NO. 413

BY SENATOR PRICE

WEIGHTS/MEASURES. Provides for transfer of stationary weight enforcement to DOTD.
(8/1/20)

1 AN ACT

2 To amend and reenact R.S. 32:1(1), (10) and (93.1), 2(D) and (E), 3(C), 388(A)(3) and (4),

3 the introductory paragraph of (B)(1)(a), (B)(4)(a), (C)(3), (F) and (G), 388.1, 389,

4 390.23(A), and 392(A)(1), R.S. 36:408(B)(3) and 409(C)(8), R.S. 40:1379.8, and

5 R.S. 47:511.1(B), (C), (D), and (E), 516(A), (B)(2), and (D), 718(B)(1) and (C) and

6 812(C), to enact R.S. 32:1(93) and 2(B) and (C), and to repeal Sections 6 through 14

7 of Act No. 320 of the 2010 Regular Session of the Legislature; relative to weights

8 and standards; to transfer the operation and maintenance of stationary weight

9 enforcement scale locations from the Department of Public Safety and Corrections

10 to the Department of Transportation and Development; to provide for authority of

11 the Department of Transportation and Development; to provide for the authority of

12 the Department of Public Safety and Corrections; to provide for definitions; to

13 provide for fines and payments; to provide for enforcement, payment, and collections

14 procedures; to provide for administrative review; to provide for transition; to provide

15 for an effective date; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 32:1(1), (10) and (93.1), 2(D) and (E), 3(C), 388(A)(3) and (4), the

1 introductory paragraph of (B)(1)(a), (B)(4)(a), (C)(3), (F) and (G), 388.1, 389, 390.23(A),
2 and 392(A)(1) are hereby amended and reenacted to read as follows:

3 §1. Definitions

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

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

22 * * *

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

25 * * *

26 **(93) "Weights and standards mobile police officer" means an employee**
27 **of the office of state police of the Department of Public Safety and Corrections**
28 **with responsibilities and duties as provided by R.S. 40:1379.8.**

29 (93.1) "Weights and standards **stationary scale** police officer" means an

1 employee of the Department of ~~Public Safety and Corrections, public safety services~~
 2 **Transportation and Development**, authorized to enforce the provisions of R.S.
 3 32:380 through 388.1, R.S. 32:390, R.S. 47:718, Chapter 4 of Subtitle II of Title 47
 4 of the Louisiana Revised Statutes of 1950, the access laws and regulations relative
 5 to controlled access highways, and certain other specified statutes and regulations
 6 ~~determined by the deputy secretary of the Department of Public Safety and~~
 7 ~~Corrections, public safety services, or by~~ **of** the Department of Transportation and
 8 Development.

9 * * *

10 §2. Authority of Department of Transportation and Development

11 * * *

12 **B. The department shall enforce only the provisions of R.S. 32:380**
 13 **through R.S. 32:388.1, R.S. 32:390, R.S. 47:718 and the provisions of Chapter**
 14 **4 relating to trucks, trailers and semi-trailers and Part V of Chapter 7 of**
 15 **Subtitle II of Title 47 of the Revised Statutes and the department's regulations**
 16 **adopted pursuant thereto on all highways within this state and shall exercise**
 17 **such other power and authority as is specifically set forth in this Chapter or**
 18 **other laws of this state.**

19 **C.(1) The Weights and Standards Stationary Scales Inspection Police**
 20 **Force is hereby created within the department. It may enforce only the**
 21 **provisions of R.S. 32:380 through R.S. 32:388.1, R.S. 47:718 and the provisions**
 22 **of Chapter 4 of Subtitle II of Title 47 relating to trucks, trailers and**
 23 **semi-trailers; Part V of Chapter 7 of Subtitle II of Title 47; the provisions of**
 24 **R.S. 32:289; and the access laws and regulations relative to controlled access**
 25 **highways.**

26 **(2) Members of the Weights and Standards Stationary Scales Inspection**
 27 **Police Force are authorized to carry weapons and to make arrests in the**
 28 **enforcement of these laws and regulations, and in that regard, shall have the**
 29 **same authority and powers conferred by law upon other law enforcement**

1 officers of this state; however, no member of the Weights and Standards
2 Stationary Scales inspection Police Force shall be authorized to carry a weapon
3 until the member has received P.O.S.T. certification training.

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

8 E. The commissioner secretary of the Department of Transportation and
9 Development, through the office of the weights and standards police force, shall
10 provide the personnel and equipment required to fully implement the provisions of
11 R.S. 32:390.23 ~~the Louisiana Truck Center, Part VI-B of Chapter 1 of Title 32 of the~~
12 ~~Louisiana Revised Statutes, as it relates to the assessment and collection of fees and~~
13 ~~taxes of this department. Any money made available and received from the Federal~~
14 ~~Highway Administration, or from any other entity for the purpose of maintaining,~~
15 ~~improving, or upgrading the stationary or mobile scales shall be used solely for such~~
16 ~~purpose. The commissioner shall be responsible for maintenance of the buildings and~~
17 ~~grounds and the stationary scales at stationary scale locations. The department shall~~
18 ~~be responsible for the maintenance of the roadways and parking lots at the stationary~~
19 ~~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 fails to stop shall be assessed the following
 15 penalty:

16 (a) Vehicles with a gross vehicle weight rating of less than twenty-six
 17 thousand pounds shall be ~~penalized~~ **fin**ed 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~~ **fin**ed 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~~ **fin**es 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 (e), (c) and (d),~~
 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 C. * * *

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

8 * * *

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

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

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

28 §388.1. Penalties; multiple violations

29 Whoever owns or drives any vehicle or combination of vehicles in violation

1 of two or more of the provisions of this Part at any one time shall be assessed the
 2 greater or the greatest of the penalties, in the full amount of the penalty. The
 3 ~~commissioner~~ **department** is hereby authorized to promulgate rules and regulations
 4 to provide that in addition to assessment of the greater or greatest penalty, the owner
 5 or driver shall be assessed a penalty not to exceed ten dollars for each other violation
 6 committed at the same time; however, such rules and regulations shall only be
 7 promulgated provided the Federal Highway Administration initiates official
 8 sanctions which would result in the loss of National Highway System apportionment
 9 or other federal funds should such penalties for multiple violations not be provided.

10 * * *

11 §389. Weights and standards police; enforcement procedure; payment and collection
 12 procedures; administrative review

13 A. The weights and standards police force and the state police shall have
 14 concurrent authority to enforce the provisions of R.S. 32:380 through 388.1 and R.S.
 15 32:390.

16 B. Any weights and standards police officer having reason to believe that any
 17 vehicle or combination of vehicles exceeds or is in violation of the provisions of R.S.
 18 32:380 through R.S. 32:386 or R.S. 32:388.1 through R.S. 32:390, or the terms and
 19 conditions of a special permit issued under R.S. 32:387 or regulations of ~~either the~~
 20 ~~Department of Transportation and Development or the Department of Public Safety~~
 21 ~~and Correction, public safety services~~ **the department or secretary**, adopted
 22 pursuant to this Part, is authorized to stop such vehicle or combination of vehicles
 23 and to inspect, measure, or weigh such vehicle, either by means of portable or
 24 stationary scales, or to require that such vehicle be driven to the nearest available
 25 location equipped with facilities to inspect, measure, or weigh such vehicle.

26 (1) Any state policeman having reason to believe that any vehicle or
 27 combination of vehicles exceeds or is in violation of the provisions of R.S. 32:380
 28 through R.S. 32:386 or R.S. 32:388.1 through R.S. 32:390, or the terms and
 29 conditions of a special permit issued under R.S. 32:387 or regulations **of the**

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

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

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

1 order, or credit card. If made by credit card, the payment shall be deemed received
2 by the commissioner when tendered and an approval code is obtained from the credit
3 card company or credit card processor.

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

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

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

18 D.(1) ~~If a carrier is determined to be the responsible party for a notice of~~
19 ~~violation by the commissioner and, if such carrier fails to pay the assessed penalty~~
20 ~~within forty-five calendar days of issuance of the notice of violation, or in the case~~
21 ~~of an administrative hearing, the responsible party fails to pay the assessed fine~~
22 ~~within thirty calendar days of receiving a notice of final judgment from the~~
23 ~~administrative law judge, the outstanding penalty amount shall be posted on the~~
24 ~~commissioner's official web site. The outstanding penalty amount for such~~
25 ~~responsible party shall continue to appear on the web site until all fines and fees are~~
26 ~~paid in full. The commissioner shall transmit the vehicle identification number of~~
27 ~~the offending vehicle for which the notice of violation was written to the office of~~
28 ~~motor vehicles. The office of motor vehicles shall not renew the registration of the~~
29 ~~offending vehicle until all fines and fees associated with the notice of violation have~~

1 ~~been paid in full. Within seven calendar days of receiving documentation from the~~
2 ~~responsible party that all fines and fees have been paid in full, the commissioner~~
3 ~~shall remove the posting of the notice of violation from his web site. Additionally,~~
4 ~~upon payment of all fines and fees associated with the notice of violation, the office~~
5 ~~of motor vehicles shall immediately authorize renewal of the vehicle's registration.~~
6 ~~Such payment shall be made by certified check, money order, or credit card. If made~~
7 ~~by credit card, the payment shall be deemed received by the commissioner when~~
8 ~~tendered and an approval code is obtained from the credit card company or credit~~
9 ~~card processor.~~

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

1 ~~Upon payment of all fines and fees, the office of motor vehicles shall immediately~~
2 ~~authorize the reinstatement of the driver's license.~~

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

4 ~~E.(1) The commissioner and any law enforcement officer working for the~~
5 ~~commissioner shall be prohibited from seizing a motor vehicle or the registration~~
6 ~~license plate of a motor vehicle for failing to pay a fine for a notice of violation.~~

7 ~~(2) In the event a motor vehicle for which a notice of violation has been~~
8 ~~issued is subsequently sold, the new owner of such vehicle shall not be responsible~~
9 ~~for any outstanding fines or fees associated with a notice of violation. The new~~
10 ~~owner of the motor vehicle shall present proper documentation to the commissioner~~
11 ~~evidencing the lawful transfer of ownership.~~

12 ~~F. During a state of emergency declared by the governor, the commissioner~~
13 ~~shall be granted an additional sixty calendar days to send the responsible party a~~
14 ~~notice of violation in accordance with the provisions of this Section. Such extension~~
15 ~~of time shall terminate not later than sixty days from the date the state of emergency~~
16 ~~ends.~~

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

24 ~~H. The failure of any vehicle or combination of vehicles to stop at a weigh~~
25 ~~facility may be excused if stopping the vehicle or combination of vehicles creates a~~
26 ~~serious traffic hazard. The commissioner shall promulgate rules under the provisions~~
27 ~~of the Administrative Procedure Act to implement the provisions of this Subsection.~~
28 ~~Such rules shall define "serious traffic hazard" and shall authorize the use of green~~
29 ~~traffic signal lights to allow vehicles to pass the weigh facility at such times as~~

1 ~~vehicles have accumulated on the entrance ramp to the weigh facility to the extent~~
2 ~~that the vehicles present a traffic hazard. Rules previously adopted by the~~
3 ~~department shall remain in full force and effect until such time as the commissioner~~
4 ~~promulgates rules pursuant to this Subsection. Rules adopted hereunder shall be~~
5 ~~subject to oversight by the House and Senate committees on transportation, highways~~
6 ~~and public works.~~

7 **Whenever any vehicle or combination of vehicles is found in violation of**
8 **any provision of this Part or any regulation of the department or secretary**
9 **adopted pursuant thereto, the weights and standards police officer or any state**
10 **policeman shall take the name and address of the owner and driver and the**
11 **license number of the vehicle and shall issue a violation ticket assessing a**
12 **penalty for such violation in accordance with R.S. 32:388.**

13 **(2) Upon issuance of the violation ticket, an owner or driver who is a**
14 **resident of Louisiana or who has a domicile in Louisiana shall receive**
15 **notification from the weights and standards stationary scale police officer that**
16 **the penalty shall be paid within thirty days of issuance of the violation ticket or**
17 **that the owner or driver may request an agency review of the penalty within**
18 **thirty days of issuance of the violation ticket. An owner or driver who is not a**
19 **resident of Louisiana or who does not have a domicile in Louisiana shall receive**
20 **notification from the weights and standards stationary scale police officer that**
21 **the penalty shall either be paid at the time the violation ticket is issued or he**
22 **shall post a bond equal to the amount of the penalty, which bond shall be**
23 **forfeited if, within thirty days of issuance of the violation ticket, the penalty has**
24 **not been paid or an agency review has not been requested. The owner or driver**
25 **shall pay the penalty assessed with certified check, cashier's check, money**
26 **order, or department-approved credit card. The secretary may establish credit**
27 **accounts for violators, if each violator provides the department a cash deposit**
28 **in the minimum amount of five thousand dollars or any amount in excess**
29 **thereof fixed by the secretary to guarantee payment of said account. The**

1 department shall not detain or impound any vehicle issued a violation ticket for
2 any violation of the provisions of R.S. 32:380 through 387 prior to the final
3 disposition of the violation ticket if the owner or driver is a resident of
4 Louisiana or has a domicile in Louisiana, or has paid the penalty or posted the
5 bond in accordance with this Section. For purposes of this Section, "final
6 disposition" shall be defined as a final conviction, not capable of appeal or
7 review.

8 (3)(a) If a driver of a motor vehicle who is a resident of Louisiana or who
9 has a domicile in Louisiana is determined to be the responsible party for the
10 violation ticket by the Department of Transportation and Development or the
11 office of state police, the driver shall be responsible for the payment of all fines
12 and fees associated with issuance of the violation ticket. If the department or the
13 office of state police fails to receive payment of the violation ticket within sixty
14 calendar days of issuance of the violation ticket or within sixty calendar days of
15 receiving a notice of final judgment from the agency or administrative review,
16 the department or the office of state police shall transmit the driver's license
17 number to the office of motor vehicles. Upon receipt of the driver's license
18 number, the office of motor vehicles shall immediately notify the driver, by first
19 class mail, that his driver's license shall be suspended thirty calendar days after
20 the date of mailing the notice unless all fines and fees associated with the
21 violation ticket are paid in full together with notice of the imposition of a
22 fifty-dollar fee by the office of motor vehicles to cover its administrative costs.
23 Upon payment of all fines and fees associated with the violation ticket, the office
24 of motor vehicles shall immediately authorize the reinstatement of the driver's
25 license.

26 (b) If a motor carrier is determined by the Department of
27 Transportation and Development or the office of state police to be the
28 responsible party for a violation ticket, and if such party fails to pay the
29 assessed penalty within sixty calendar days of receiving the violation ticket or

1 within sixty calendar days of receiving a notice of final judgment from the
2 agency or administrative review, the department or the office of state police
3 shall transmit the vehicle identification number of the offending vehicle for
4 which the violation ticket was issued to the office of motor vehicles. The office
5 of motor vehicles shall not renew the registration of the offending vehicle until
6 all fines and fees associated with the violation ticket are paid in full. Upon
7 payment of all fines and fees associated with the violation ticket, the office of
8 motor vehicles shall immediately authorize renewal of the vehicle's registration.
9 The Department of Transportation and Development and the office of state
10 police shall adopt rules and regulations in accordance with the Administrative
11 Procedure Act, subject to oversight by the House and Senate Committees on
12 Transportation, Highways and Public Works, as are necessary to implement the
13 provisions of this Subparagraph.

14 (c) The Department of Transportation and Development and the office
15 of state police shall be prohibited from seizing the registration license plate of
16 a motor vehicle for failing to pay a fine for a violation ticket.

17 (4)(a) Any owner or driver who pays an assessed penalty in accordance
18 with the provisions of this Section shall have a period of ninety days after the
19 date of payment to institute a civil suit against the department to recover the
20 penalty so paid. However, the ninety-day time period to institute a civil suit
21 against the department shall be suspended for any owner or driver who timely
22 requests an agency review in accordance with the provisions of this Section, in
23 which case the owner or driver shall have a period of ninety days after the final
24 disposition of the agency review to institute a civil suit against the department
25 to recover the penalty so paid.

26 (b) The right to sue for recovery of a penalty paid shall afford a legal
27 remedy and right of action in any state district court for a full and complete
28 adjudication of any questions arising in the enforcement of a penalty respecting
29 the legality of any penalty assessed or the method of enforcement thereof. Any

1 such suit may be instituted either in the parish in which the violation occurred,
2 the domicile of vehicles, provided the domicile is within the state of Louisiana,
3 or in East Baton Rouge Parish. In any such suit, service of process shall be made
4 on the department, through the secretary. The department shall be a necessary
5 and proper party defendant in any such suit.

6 (5) No court of this state shall issue any process whatsoever to restrain
7 the collection of any penalty assessed by the department pursuant to this Part.

8 (6) If upon expiration of the ninety-day period provided in Paragraph
9 (4)(a) of this Subsection any penalty assessed remains unpaid, the department
10 may institute a civil suit in the parish in which the violation occurred or in the
11 domicile of the owner or driver to collect any penalty assessed but unpaid. The
12 department shall have one year from the date of expiration of the ninety-day
13 period to institute such a suit.

14 (7) Notwithstanding the above provisions, any member of the armed
15 forces, who is in uniform or presents an order for duty and who is operating a
16 military vehicle in the line of duty in violation of any provision of R.S. 32:380
17 through R.S. 32:387 or any regulation of the department or secretary adopted
18 pursuant thereto shall not be required to pay the penalty assessed, nor shall he
19 be required to surrender his Louisiana driver's license. However, the owner of
20 the vehicle or the federal government shall pay the penalty within thirty days.

21 (8) Failure of any vehicle or combination of vehicles to stop at a weigh
22 facility may be excused if stopping the vehicle or combination of vehicles would
23 create a serious traffic hazard. The Department of Transportation and
24 Development shall promulgate rules under the provisions of the Administrative
25 Procedure Act for the implementation of this Paragraph. Such rules shall define
26 "serious traffic hazard" and shall authorize the use of green traffic signal lights
27 to allow vehicles to pass the weigh facility at such times as vehicles have
28 accumulated on the entrance ramp to the weigh facility to the extent that the
29 vehicles present a traffic hazard. Rules adopted hereunder shall be subject to

1 oversight by the House and Senate Committees on Transportation, Highways
2 and Public Works.

3 D.(1) The secretary shall establish a procedure for agency review of
4 violation tickets issued by weights and standards stationary scale police officers
5 and may take appropriate actions based on the findings of the agency's review.
6 The secretary shall adopt rules in accordance with the Administrative
7 Procedure Act to govern agency review and any actions taken based on the
8 findings of the agency.

9 (2) Following conclusion of the agency's review, the operator or
10 responsible party issued the violation ticket by the weights and standards
11 stationary scale police officer may request a hearing conducted by a review
12 panel comprised of five members. One member of the review panel shall be
13 appointed by the secretary of the Department of Transportation and
14 Development, two members shall be appointed by the chairman of the House
15 Transportation, Highways and Public Works Committee, and two members
16 shall be appointed by the chairman of the Senate Transportation, Highways and
17 Public Works Committee. Decisions of the review panel shall be binding upon
18 the Department of Transportation and Development. The secretary shall adopt
19 rules and regulations in accordance with the Administrative Procedure Act
20 regarding the hearing conducted by the review panel including but not limited
21 to rules and regulations regarding the notification and procedure for requesting
22 a hearing by the review panel and deadlines for request for a hearing before the
23 review panel.

24 * * *

25 §390.23. Agency representatives

26 A. Located within the truck center shall be representatives of the following
27 agencies:

28 (1) The Public Service Commission.

29 (2) The Department of Public Safety and Corrections, public safety services.

1 (3) The Department of Revenue.

2 (4) The Department of Transportation and Development, office of weights and
3 standards.

4 * * *

5 §392. Impounding of vehicles; prohibitions

6 A.(1) Upon discovery of any vehicle operated in violation of this Chapter, the
7 vehicle shall not be impounded but shall be directed to and followed by the weights
8 and standards police officer or state policeman to the nearest appropriate place
9 suitable for unloading to its licensed gross weight or maximum size requirements as
10 provided in this Chapter and storage of said product to preserve it for its intended use
11 in commerce and in either case shall be detained or unloaded at the expense and
12 responsibility of the owner or driver. The ~~commissioner~~ department shall not detain
13 or impound any vehicle issued a violation ticket for any violation of the provisions
14 of R.S. 32:380 through 387 prior to the final disposition of the violation ticket if the
15 owner or driver is a resident of Louisiana or has a domicile in Louisiana, or has
16 paid the penalty or posted the bond in accordance with the provisions of R.S.
17 32:389(C). For purposes of this Section, "final disposition" shall be defined as
18 a final conviction, not capable of appeal or review.

19 * * *

20 Section 2. R.S. 36:408(B)(3) and 409(C)(8) are hereby amended and reenacted to
21 read as follows:

22 §408. Offices; purposes and functions

23 * * *

24 B. * * *

25 (3) Within the office of state police there shall be a Weights and
26 Standards Mobile Police Force which shall perform the functions of the state
27 related to the enforcement of R.S. 32:380 through 388.1, R.S. 32:390, and R.S.
28 47:718, and the provisions of Chapter 4 of Subtitle II of Title 47 relating to
29 trucks, trailers, and semi-trailers and Part V of Chapter 7 of Subtitle II of Title

1 and the enforcement of the law relating thereto as sheriffs, constables, and police
2 officers have in their respective jurisdictions. No member of the Weights and
3 Standards Mobile Police Force shall be authorized to carry a weapon until the
4 member has received P.O.S.T. certification training.

5 Section 4. R.S. 47:511.1(B), (C), (D) and (E), 516(A), (B)(2) and (D), 718(B)(1) and
6 (C) and 812(C) are hereby amended and reenacted to read as follows:

7 §511.1. Temporary permits

8 * * *

9 B. The Weights and Standards Police Force of the Department of
10 Transportation and Development is hereby authorized and empowered to issue
11 temporary permits on behalf of the commissioner and to enforce the provisions of
12 this Section.

13 C. If upon inspecting a vehicle or combination of vehicles it is found that it
14 has no temporary permit, the weights and standards police officer or other
15 enforcement officer of the ~~commissioner~~ Department of Public Safety may
16 impound the vehicle and may require the operator to purchase forthwith a temporary
17 permit. Two hundred dollars shall be added to the cost of purchasing a temporary
18 permit as a penalty.

19 D. Payments for penalties under this Section shall be remitted to the
20 ~~commissioner~~ Department of Transportation and Development. ~~Such payment~~
21 ~~shall be made by certified check, money order, or credit card. If payment is made by~~
22 ~~credit card, the payment shall be deemed received by the commissioner when~~
23 ~~tendered and an approval code is obtained from the credit card company or credit~~
24 ~~card processor.~~

25 E. All of such penalties collected by the ~~commissioner~~ secretary of the
26 Department of Transportation and Development shall be paid into the state
27 treasury on or before the twenty-fifth day of each month following their collection
28 and, in accordance with Article VII, Section 9 of the constitution shall be credited
29 to the Bond Security and Redemption Fund.

* * *

§516. Vehicles improperly licensed; weighing, inspections and investigations;
purchase of proper license required; penalty

A. The commissioner, motor vehicle bureau enforcement officers or the division of state police, weights and standards police officers; of the Department of Transportation and Development or other proper legal authority, shall have the right and power at any time and place to investigate, in any lawful manner, and inspect, at any time and place, any vehicle, with respect to its registration, license, tax payment or other manner or thing contemplated by or provided for in this Chapter. To that end the commissioner may select, appoint or designate inspectors, acquire the necessary scales or other equipment incident to their functioning, and where necessary may cause the owner or driver of any vehicle to move the same or cause it to be moved, forthwith, to the nearest scales available in the direction of destination.

B. * * *

(2) Twenty-five percent of the annual price of the license or registration shall be added to the cost of purchasing the same as a penalty, which shall be in lieu of the penalties directed to be imposed by R.S. 47:508. There shall be credited against the price of this license or registration the price of the license or registration on the vehicle at the time of its unlawful operation. However, in lieu of impoundment and immediate purchase of license and registration, a Department of Transportation and Development stationary weights and standards police enforcement officer may issue a violation ticket in the amount of seventy-five dollars, in addition to any overweight penalties due as provided by R.S. 32:388, to any operator possessed of an improper Louisiana license and registration.

* * *

D. Whoever violates his promise to appear, purchase license plate and registration and pay any penalty assessed under Subsections B and C of this section shall be punished by a fine of not more than five hundred dollars, or by

1 imprisonment for not more than ninety days, or both, and the driver's license or
2 license plate shall be forwarded to the ~~commissioner~~ **Department of Public Safety**
3 for suspension, revocation, and cancellation.

4 * * *

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

7 * * *

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

16 * * *

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

28 * * *

29 §812. Violations; cargo tank to carburetor connection; operation without

1 speedometer or hub meter; operation without name and address on
2 trucks; invoice

3 * * *

4 C. All specific penalties collected by the Department of Public Safety and
5 Corrections, ~~public safety services,~~ **or the Department of Transportation and**
6 **Development** in accordance with this Part shall be paid to the ~~deputy~~ secretary of the
7 Department of Public Safety and Corrections, ~~public safety services,~~ **or the**
8 **Department of Transportation and Development, whichever agency issued the**
9 **violation ticket,** who shall pay said penalties into the state treasury on or before the
10 twenty-fifth day of each month following their collection and, in accordance with
11 Article VII, Section 9 of the Constitution of Louisiana, such funds shall be credited
12 to the Bond Security and Redemption Fund.

13 Section 5. Section 6 through 14 of Act No. 320 of the 2010 Regular Session of the
14 Legislature are hereby repealed.

15 Section 6. The items which are currently necessary to the duties and responsibilities
16 currently performed by the Department of Public Safety and Corrections, public safety
17 services for carrying out the functions, duties, and responsibilities of the previously
18 constituted Weights and Standards stationary scales police force are transferred to the
19 Department of Transportation and Development.

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

26 Section 8. Any legal proceeding, the statutory provisions for which are amended or
27 repealed by the provisions of this Act, to which any agency or office is a party and which
28 is filed, initiated, or otherwise pending before any court or hearing agency on the effective
29 date of this Act, and all documents involved or affected by said legal proceeding shall retain

1 their effectiveness and shall be continued in the name of the former agency. All further legal
2 proceedings shall be in the name of the original party agency and the Department of
3 Transportation and Development shall be substituted for the original party agency without
4 the necessity for amendment of any document to substitute the name of the department or
5 the name or title of any subdivision or section of the department.

6 Section 9. All employees engaged in the performance of the functions of the Weights
7 and Standards stationary police force, the provisions of which are amended or transferred
8 by this Act, are hereby assigned to the Department of Transportation and Development and,
9 shall insofar as practicable and necessary continue to perform duties heretofore assigned,
10 subject to applicable state civil service laws, rules, and regulations.

11 Section 10. The provisions of this Act shall not be construed in any manner which
12 will impair the contractual or other obligations of any agency, office, or department of this
13 state.

14 Section 11. Any reference to the Weights and Standards Stationary Police Force or
15 Weights and Standards Mobile Police Force, in any provision of law, including but not
16 limited to provisions of Chapters 4 and 7 of Subtitle II of Title 47 of the Louisiana Revised
17 Statutes of 1950, shall be understood to refer to the Weights and Standards Police Force of
18 the Department of Transportation and Development and the Louisiana State Law Institute
19 shall make the necessary statutory changes in order to comply with the provisions of this
20 Section.

21 Section 12. All rules and regulations promulgated by the Department of
22 Transportation and Development relative to weight enforcement, payment, and collection
23 procedures shall be adopted in accordance with the provisions of the Louisiana
24 Administrative Procedure Act. Such rules and regulations shall make reference to the
25 Sections or Subsections which they may interpret or apply.

26 Section 13. This Act shall become effective on August 1, 2020.

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

DIGEST

SB 413 Original

2020 Regular Session

Price

Proposed law transfers the Weights and Standards Police Force 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."

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

Present law provides that the 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 Police Force ("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 deputy secretary of DOTD.

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 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 commissioner'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 driver is the responsible party; provides for notice of suspension of license within 30 days unless all penalties and fees are paid; provides

for \$50 fee to OMV to cover administrative cost; provides motor carriers shall not be responsible for driver violations.

Proposed law repeals present law and provides that any person issued a violation under this Part, that is domicile or resides in Louisiana shall receive notice from the weights and standards stationary police that the penalty shall be paid within 30 days or a request of review from the agency within 30 days. A owner or driver who is a non-resident shall either pay the ticket at the time issued or post bond equal to the amount of the penalty.

Proposed law provides that the secretary shall establish credit accounts for violators, if violator has a cash deposit in the minimum amount of \$5,000 or any amount in excess fixed by the secretary.

Proposed law provides that a violator that is domiciled or a resident of Louisiana has to pay all fines and fees, failure to pay fees within 60 days of issuance will result in suspended license for 30 calendar days.

Proposed law provides that any owner or driver who pays an assessed penalty under this Section shall have a period of 90 days to institute a civil suit against the DOTD to recover the penalty. The 90-day time period shall be suspended for owners who request an agency review. After review the owner has 90 days after the final disposition to institute a civil proceeding against the DOTD to recover the penalty.

Proposed law provides that the secretary shall establish procedures for agency review of ticket violations. After the review of the violation the operator shall request a hearing conducted by a review panel comprise of five members:

- (1) One member appointed by the secretary of DOTD
- (2) Two members appointed by the chairman of the House Transportation Committee
- (3) Two members appointed by the chairman of the Senate Transportation Committee

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 August 1, 2020.

(Amends R.S. 32:1(1),(10) and (93.1), 2(D) and (E), 3(C), 388(A)(3), and (4), (B)(1)(a)(intro para), (B)(4)(a), (C)(3), (F) and (G), 388.1, 389, 390.23(A) and 392(A)(1), and R.S. 36:408(B)(3) and 409(C)(8), and 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(93), and 2(B) and (C); Repeals Sections 6-14 of Act No. 320 of the 2010 Regular Session)