

2021 Regular Session

HOUSE BILL NO. 655

BY REPRESENTATIVE BROWN

WILDLIFE/ENFORCEMENT: Provides for the removal of criminal penalties and reclassification of certain wildlife violations and provides for enforcement and recovery of civil fines by the Department of Wildlife and Fisheries

1 AN ACT

2 To amend and reenact R.S. 56:6.1(C), 31, 32, 45, 262(J), 316(C), 326(G), 326.5(C),
3 410.3(B), 412(B), 423(B)(2), 450(C), 571(D), and 1851(C), and to enact R.S.56:32.1,
4 303.2(D), 304.2(C), and 305.3(C), relative to wildlife violations; to remove criminal
5 penalties from certain Class 1, 2, and 3 wildlife violations; to reclassify certain
6 violations under Class 2 and 3; to establish administrative and civil procedures
7 relative to hearings and the recovery of civil penalties by the department; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 56:6.1(C), 31, 32, 45, 262(J), 316(C), 326(G), 326.5(C), 410.3(B),
11 412(B), 423(B)(2), 450(C), 571(D), and 1851(C) are hereby amended and reenacted and
12 R.S.56:32.1, 303.2(D), 304.2(C), and 305.3(C) are hereby enacted to read as follows:

13 §6.1. Emergency closure of hunting or fishing seasons; rules and regulations;
14 prohibitions; penalties

15 * * *

16 C. Violation of any closure order authorized by this Section constitutes a
17 class ~~three~~ 2-B violation.

18 * * *

1 §31. Class one violations

2 The following penalties shall be imposed for a class one violation:

3 (1) For the first offense, a fine of fifty dollars ~~or imprisonment for not more~~
4 ~~than fifteen days, or both.~~ The fine shall include all costs of court.

5 (2) For the second offense, a fine of not less than seventy-five dollars nor
6 more than two hundred fifty dollars ~~or imprisonment for not less than thirty days nor~~
7 ~~more than sixty days, or both.~~

8 (3) For the third offense and all subsequent offenses, a fine of not less than
9 two hundred dollars nor more than five hundred fifty dollars ~~and imprisonment for~~
10 ~~not less than thirty days nor more than ninety days.~~

11 * * *

12 §32. Class two violation

13 A. Class two violations shall be divided into 2-A and 2-B violations.

14 (1) The following penalties shall be imposed for a class ~~two~~ 2-A violation:

15 ~~(1)(a)~~ (a) For the first offense, the fine shall be not less than one hundred dollars
16 nor more than three hundred fifty dollars, ~~or imprisonment for not more than sixty~~
17 ~~days, or both; .~~

18 ~~(2)(b)~~ (b) For the second offense, the fine shall be not less than three hundred
19 dollars, nor more than five hundred fifty dollars; ~~and imprisonment for not less than~~
20 ~~thirty days nor more than sixty days; .~~

21 ~~(3)(c)~~ (c) For the third offense and all subsequent offenses, the fine shall be not
22 less than five hundred dollars nor more than seven hundred fifty dollars, ~~and~~
23 ~~imprisonment for not less than sixty days nor more than ninety days,~~ and forfeiture
24 to the commission of anything seized in connection with the violation.

25 (2) The following penalties shall be imposed for a class 2-B violation:

26 (a) For the first offense, the fine shall be not less than two hundred fifty
27 dollars nor more than five hundred dollars.

1 (b) For the second offense, the fine shall be not less than five hundred
2 dollars, nor more than eight hundred dollars, and forfeiture to the commission of
3 anything seized in connection with the violation.

4 (c) For the third offense and all subsequent offenses, the fine shall be not less
5 than seven hundred fifty dollars, nor more than one thousand dollars, and forfeiture
6 to the commission of anything seized in connection with the violation.

7 (d) In addition to any other penalty, for a second or subsequent violation of
8 the same provision of law, the penalty imposed may include revocation of the permit
9 or license under which the violation occurred for the period for which it was issued
10 and barring of the issuance of another permit or license for that same period.

11 §32.1. Civil suit for recovery of value

12 A. The department is authorized to bring a civil action to recover the
13 penalties established by R.S. 56:31 and R.S. 56:32 in this Subpart.

14 B. The department may elect to enforce the provisions of R.S. 56:31 and R.S.
15 56:32 by adjudicatory hearing held in accordance with the provisions of the
16 Administrative Procedures Act. The department shall hold the adjudicatory hearing
17 in the regional office for the parish where the defendant is domiciled or where the
18 violation occurred. The defendant may waive the adjudicatory hearing upon payment
19 of the fine.

20 C.(1) In any case where the department elects to proceed by adjudicatory
21 hearing, the defendant shall be notified in writing of the time and place set for the
22 hearing. Written notice of the time and place of the hearing may be given on any
23 citation or summons issued in connection with the violation or made by certified
24 letter mailed to the defendant at his last known address or at the address that appears
25 on any hunting or fishing license issued to him by the department. The summons or
26 written notice shall constitute notice to the defendant that the failure to appear at the
27 specified time and location shall result in the assessment of civil penalties and the
28 loss of all hunting and fishing privileges while assessed amounts remain unpaid.

1 Notice given by certified mail in accordance with this Subsection shall be deemed
2 effective fifteen days after the notice is postmarked and mailed.

3 (2). Either party may appeal from a ruling of the administrative hearing
4 officer to the district court in the judicial district where the offense occurred.

5 (3). Once all appeals deadlines have expired, a ruling of the administrative
6 law judge shall be considered final for the purposes of debt recovery or collection.

7 (D). Except for first offenses of class one violations, the person against
8 whom the civil penalties are assessed shall also be liable for attorney fees and all
9 costs of the adjudicatory hearing.

10 (E). Any recovery of civil penalties shall be immediately deposited to the
11 Conservation Fund of the Department of Wildlife and Fisheries.

12 * * *

13 §45. Jurisdiction of trial of violations

14 Except as provided in R.S. 56:32.1, the ~~The~~ district courts of this state shall
15 have original jurisdiction of the trial of persons charged with violations of this
16 Chapter.

17 * * *

18 §262. Nongame quadrupeds; breeding, propagation, and exhibition

19 * * *

20 J. Violation of this Section constitutes a class ~~three~~ 2-B violation.

21 * * *

22 §303.2. License possession; menhaden

23 * * *

24 D. Violation of any of the provisions of this Section constitutes a class 2-B
25 violation.

26 * * *

27 §304.2. Operation by person not holding a commercial fisherman's license

28 * * *

1 C. Violation of any of the provisions in this Section constitutes a class 2-B

2 violation.

3 * * *

4 §305.3. Temporary transfer of commercial gear licenses

5 * * *

6 C. Violation of any of the provisions in this Section constitutes a class 2-B

7 violation.

8 * * *

9 §316. Trespass on areas set aside for propagation of fish

10 * * *

11 C. Violation of any of the provisions of this Section constitutes a class ~~three~~

12 2-B violation.

13 * * *

14 §326. Size and possession limits; commercial fish

15 * * *

16 G. Violation of any provision of this Section for which no penalty has been
17 specifically provided constitutes a class ~~three~~ 2-B violation.

18 * * *

19 §326.5. Bowfin; size limitations; eggs

20 * * *

21 C. Violation of this Section constitutes a class ~~three~~ 2-B violation.

22 * * *

23 §410.3. Sabine Lake; taking of crabs; seasons; gear; penalties

24 * * *

25 B. Violation of any rule or regulation adopted and promulgated by the
26 commission in accordance with the provisions of Subsection A of this Section
27 constitutes a class ~~three~~ 2-B violation.

28 * * *

1 §412. Issuance and renewal of domesticated aquatic organism license

2 * * *

3 B. Violation of any of the provisions of this Section constitutes a class ~~three~~
4 2-B violation.

5 * * *

6 §423. Property rights, larceny or other public offense concerning; leases heritable
7 and transferable; adjudication of claims

8 * * *

9 B.

10 * * *

11 (2) No person shall trawl or seine or use skimmer nets over any area of
12 privately leased bedding grounds or oyster propagating place in the year immediately
13 following the seeding of such area which is staked off, marked, or posted as required
14 by law or regulation. Any person who knowingly trawls or uses skimmer nets upon
15 such marked areas shall be liable for damages caused to the lessee. A violation of
16 this Paragraph shall be a class ~~three~~ 2-B violation.

17 * * *

18 §450. Freshwater mussels; rules; penalties

19 * * *

20 C. Any violation of rules pertaining to the harvest and sale of freshwater
21 mussels shall constitute a class four violation, R.S. 56:34. Any violation of harvest
22 reporting requirements shall constitute a class ~~three~~ 2-B violation, ~~R.S. 56:33~~ R.S.
23 56:32(A)(2).

24 * * *

25 §571. Underutilized species, policy and purpose; permits; fees; rules and regulations

26 * * *

27 D. Violation of any of the provisions of this Section constitutes a class ~~three~~
28 2-B violation.

29 * * *

1 §1851. Penalties and enforcement

2 * * *

3 C. Unless otherwise provided by this Part, intentional violation of the
4 provisions of this Part constitutes a class ~~three~~ 2-B violation, ~~subject to the penalties~~
5 ~~provided in R.S. 56:33~~; however, there shall be no forfeiture of anything seized in
6 connection with the violation.

7 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 655 Engrossed

2021 Regular Session

Brown

Abstract: Removes criminal penalties from certain Class 1, 2, and 3 wildlife violations, reclassifies violations under Classes 2 and 3, and provides procedures for the enforcement and recovery of the remaining civil penalties.

Present law provides for wildlife and fisheries violations and penalties for same under a classification system where the penalties for Class 1 violations include fines and imprisonment and the penalties for Class 2 violations include fines, imprisonment, and forfeiture of property seized in connection with the violation.

Proposed law removes the criminal penalties from all Class 1 and Class 2 violations. roposed law further divides Class 2 violations into Class 2-A and Class 2-B violations, provides that penalties for Class 2-A violations include civil fines, and penalties for a Class 2-B violation include civil fines, forfeiture, and the revocation of privileges granted by the Dept. of Wildlife and Fisheries.

Under present law, the penalties for Class 3 violations include fines, imprisonment, forfeiture of seized property, and revocation of privileges granted by the department. The following are Class 3 violations under present law:

- (1) Violation of an emergency closure of hunting or fishing seasons
- (2) Nongame quadrupeds; breeding, propagation, and exhibition
- (3) Trespass on areas set aside for propagation of fish
- (4) Size and possession limits; commercial fish
- (5) Bowfin; size limitations; eggs
- (6) Sabine Lake; taking of crabs
- (7) Domesticated aquatic organism license violation
- (8) Larceny or other public offense concerning oyster leases

- (9) Freshwater mussels harvest reporting violation
- (10) Underutilized species violations
- (11) Any other intentional violation of wildlife and fisheries laws

Proposed law reclassifies these violations as Class 2-B violations, which are not subject to criminal penalties under present law.

Proposed law further provides for new classification of the following violations as Class 2-B violations:

- (1) License possession; menhaden
- (2) Operation of a commercial fishing vessel without a license
- (3) Temporary transfer of commercial gear licenses

Present law requires that trials regarding wildlife violations be heard in district courts of the state, which have original jurisdiction. Proposed law authorizes the department to bring civil or administrative proceedings for the recover of penalties assessed for wildlife violations and provides for venue, notice and hearing procedures, appeals, and final judgment, attorneys fees, an dedication of penalties recovered.

(Amends R.S. 56:6.1(C), 31, 32, 45, 262(J), 316(C), 326(G), 326.5(C), 410.3(B), 412(B), 423(B)(2), 450(C), 571(D), and 1851(C); Adds R.S.56:32.1, 303.2(D), 304.2(C), and 305.3(C))