

RÉSUMÉ DIGEST

ACT 357 (HB 701)

2021 Regular Session

Pierre

New law authorizes the secretary of the Dept. of Transportation and Development (DOTD), or his designee, to exercise police powers of the state necessary to maintain the peace and accomplish the orderly handling of the authority to establish high occupancy vehicle (HOV) lanes, subject to the provisions of new law.

New law provides the regulations for a frequent violator who fails to respond to high-occupancy vehicle violation when the office of motor vehicles receives notice from the DOTD to not renew or reissue driver's license or vehicle registration pursuant to R.S. 47:820.5.9(J)(2). Requires the office of motor vehicles to issue a notice at the address listed on the violator's driver's license unless a more current address is on file. Requires the vehicle be identified by the vehicle identification number and assigned license plate number; in addition, advise the registered owner of his registration privileges. Further requires the violator pay a \$100 restatement fee.

New law provides for definitions.

New law requires any travel lane designated as an HOV lane be for the exclusive use of qualified HOVs.

New law authorizes the DOTD to establish permitting requirements for motor vehicles on one or more designated HOV lanes, including registration of the HOV with the department, prior to using an HOV lane. New law requires a motor vehicle that has not fulfilled applicable permitting requirement established by the DOTD not be considered a qualified HOV.

New law requires the vehicle's registered owner be liable to make payment to the department of the proper penalty and, except as provided in new law, a \$25 administrative fee to recover the cost of collecting the penalty subject to provisions of new law where a record generated by an HOV monitoring system shows the HOV violation.

New law establishes an HOV violation fine of not more than \$100. Authorizes the department to establish increasing penalties for multiple HOV violations, not to exceed \$100 penalty for a single HOV violation imposed pursuant to new law.

New law provides a presumption that the ownership status of the motor vehicle is prima facie evidence of liability. However, new law specifies that there is a rebuttable presumption by providing proof the vehicle was sold, or otherwise transferred prior to the HOV violation.

New law requires the department, for the purpose of educating the public and promoting proper use of HOV lanes, promulgate rules and regulations governing the issuance of warning letters in lieu of HOV violation notices to drivers who are not frequent violators. Requires warning letters not result in the assessment of penalties or fees against the registered owner and provide the information required for HOV violation notices.

New law provides that the following procedures be taken for the collection of penalties, administrative fees, and late charges assessed pursuant to this Section:

- (1) The department must send notice of an HOV violation by first-class mail to the registered owner of the motor vehicle at the address shown on the records of the Dept. of Public Safety and Corrections, office of motor vehicles (OMV), or such other address as may be provided by the owner or determined through other reliable means.
- (2) The HOV violation notice must include the name and address of the person alleged to be liable for the HOV violation, the amount to be paid, identifying information for the motor vehicle involved, the date and the approximate time of the HOV violation, the administrative fees due, an electronic mail address and physical or post office box mailing address to which an appeal may be sent.

- (3) The violation notice must include a waiver notice, a recitation of deemed liability, and warning that the registered owner has to pay the penalty and administrative fees specified in the notice or appeal the HOV violation by making a request for a hearing to the department within 30 days after issuance and describe the means and content of the response for payment or appeal.
- (4) The registered owner may, without waiving judicial review, appeal an HOV violation by notifying the department in writing, by either regular mail or electronic mail, that he is waiving the right to a hearing and requesting a review and written disposition of the HOV violation from a department violation clerk by mail or electronic mail. Requires the appeal be signed and explain the basis for the appeal.
- (5) A registered owner issued an HOV violation notice can make a written statement for an appeal hearing before an agent designated by the department. Requires the violation clerk, within 30 days of receipt of a request for an appeal, notify the registered owner in writing by first-class mail of the date, time, and place of the hearing.
- (6) The electronic mail sent by the registered owner to the address provided in the HOV violation notice will be presumptive evidence of the receipt by the department. Specifies that electronic mail sent by the department to the address provided by the registered owner will be presumptive evidence of receipt by the registered owner.

New law authorizes the department to impose charges and sanctions as follows:

- (1) A registered owner who fails to submit payment or otherwise respond to an HOV violation notice as provided in new law within 30 calendar days after the date of the issuance of the HOV violation notice may incur a \$5 late charge to cover additional costs of collecting the penalty.
- (2) If the registered owner fails to submit payment or otherwise respond to an HOV violation notice as provided in new law within 60 calendar days after the date of issuance, the department may pursue civil action against the registered owner as it deems appropriate to collect penalties and administrative fees assessed in the notice.
- (3) In addition to the other procedures required by new law, the department will promulgate rules and regulations for the identification of motor vehicles that frequently engage in HOV violations and for providing notice to registered owners of motor vehicles meeting such criteria. Requires a frequent violator who fails to submit payment or respond to a notice within 60 days of the notice be prohibited from any renewal or reissuance of their driver's license and vehicle registration until all HOV violations are disposed of pursuant to new law.

New law requires a registered owner's appeal of his classification as a frequent violator be conducted in the same manner as an appeal of an HOV violation, but not applicable to the provisions of the Administrative Procedure Act as it relates to notice of the hearing decision, any request for rehearing, and any petition for judicial review.

New law requires a video recording, photograph, or other electronic data produced by an HOV monitoring system be admissible in a proceeding to collect a penalty, administrative fee, or other charge of the department for an HOV violation.

New law provides an original or facsimile of a certificate, sworn to or affirmed by an agent of the department specifying an HOV violation occurred and is based upon a personal inspection of a video recording, photograph, or other electronic data produced by an HOV monitoring system, as defined in new law, is prima facie evidence of the facts contained in the certificate. New law provides any other provision of new law to the contrary, a video recording, photograph, or other electronic data prepared for enforcement of HOV lane requirements is for the exclusive use of the department and the office of motor vehicles in the discharge of their duties under new law.

New law provides the provisions of new law are intended to supplement the laws governing motor vehicles and traffic regulations appearing in new law (Title 32), and requires nothing contained in new law be construed as precluding any police officer from enforcement within

a designated HOV lane. Requires a defense from enforcement by the department for a registered owner of a motor vehicle be a previously issued citation from law enforcement for the same conduct that resulted in an HOV violation.

Effective June 14, 2021.

(Adds R.S. 47:820.5.9)