

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), (16), 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), (16), 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 (16) "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 **Transportation and Development**, authorized to enforce the provisions of R.S.
 2 32:380 through 388.1, R.S. 32:390, R.S. 47:718, Chapter 4 of Subtitle II of Title 47
 3 of the Louisiana Revised Statutes of 1950, the access laws and regulations relative
 4 to controlled access highways, and certain other specified statutes and regulations
 5 ~~determined by the deputy secretary of the Department of Public Safety and~~
 6 ~~Corrections, public safety services, or by~~ **of** the Department of Transportation and
 7 Development.

8 **(108.1) "Weights and standards mobile police officer" means an**
 9 **employee of the office of state police of the Department of Public Safety and**
 10 **Corrections, public safety services, with responsibilities and duties as provided**
 11 **by R.S. 40:1379.8.**

12 * * *

13 §2. Authority of Department of Transportation and Development

14 * * *

15 **B. The department shall enforce the provisions of R.S. 32:380 through**
 16 **R.S. 32:388.1, R.S. 32:390, R.S. 47:718 and the provisions of Chapter 4 of**
 17 **Subtitle II of Title 47 relating to trucks, trailers and semi-trailers and Part V of**
 18 **Chapter 7 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 and**
 19 **the department's regulations adopted pursuant thereto on all highways within**
 20 **this state and shall exercise other power and authority as is specifically set forth**
 21 **in this Chapter or other laws of this state.**

22 **C.(1) The Weights and Standards Stationary Scales Police Force is**
 23 **hereby created within the department. It may enforce the provisions of R.S.**
 24 **32:380 through R.S. 32:388.1, R.S. 32:390, R.S. 47:718 and the provisions of**
 25 **Chapter 4 of Subtitle II of Title 47 relating to trucks, trailers, and semi-trailers;**
 26 **Part V of Chapter 7 of Subtitle II of Title 47; the provisions of R.S. 32:389; and**
 27 **the access laws and regulations relative to controlled access highways.**

28 **(2) Members of the Weights and Standards Stationary Scales Police**
 29 **Force are authorized to carry weapons and to make arrests in the enforcement**

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 * * *

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

12 * * *

13 C. ~~The Weights and Standards Police Force is hereby created within the~~
 14 ~~Department of Public Safety and Corrections, public safety services. It may enforce~~
 15 ~~the provisions of R.S. 32:380 through 388.1, R.S. 32:390, R.S. 47:718, Chapter 4 of~~
 16 ~~Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, the access laws and~~
 17 ~~regulations relative to controlled access highways, and certain other specified~~
 18 ~~statutes and regulations determined by the deputy secretary of the Department of~~
 19 ~~Public Safety and Corrections, public safety services. Members of the Weights and~~
 20 Standards Mobile Police Force ~~may be~~ are authorized to carry weapons and to make
 21 arrests in the enforcement of these laws and regulations and ~~may~~ have the same
 22 authority and powers conferred by law upon other law enforcement officers of ~~the~~
 23 ~~Department of Public Safety and Corrections upon being duly commissioned as a~~
 24 ~~peace officer by the deputy secretary of the Department of Public Safety and~~
 25 ~~Corrections, public safety services~~ the state; however, no member of the Weights
 26 and Standards Mobile Police Force shall be authorized to carry a weapon until the
 27 member has received P.O.S.T. certification training and has been duly commissioned
 28 as a peace officer by the deputy secretary of the Department of Public Safety and
 29 Corrections, public safety services.

* * *

§388. Penalties; payments

A. * * *

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

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

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

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

B.(1)(a) Except as provided in Subparagraphs (b) and (c) **of this Paragraph**, whoever owns or operates any vehicle or combination of vehicles in violation of any rule, regulation, directive, or requirement **of the secretary** adopted under R.S. 32:386 or in violation of R.S. 32:386 shall be required to reduce the load to the maximum permissible gross weight and shall be assessed a penalty on such weight which exceeds the maximum permissible gross weight as defined by R.S. 32:386 or maximum allowable axle weights, whichever results in the higher fine, in accordance with the following schedule:

* * *

(4)(a) Whoever owns any business entity engaged in the sale or shipment of construction aggregates requiring a weigh master, not including asphalt, or transfer sales or shipment from rail, barge, or ship to wholesale stockpiles or inventories

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

21 * * *

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

27 G.(1) All ~~such~~ penalties collected by **the secretary and** the commissioner
28 shall be paid into the state treasury on or before the twenty-fifth day of each month
29 following their collection and, in accordance with ~~Article VII, Section 9 of the~~

1 ~~Constitution of Louisiana~~ **La. Const. Art. VII, Sec. 9**, shall be credited to the Bond
 2 Security and Redemption Fund. However, after a sufficient amount of the penalties
 3 collected by **the secretary and** the commissioner is allocated from the fund to pay
 4 all obligations secured by the full faith and credit of the state within any fiscal year,
 5 the treasurer shall pay an amount equal to the fees paid into the Bond Security and
 6 Redemption Fund pursuant to this Paragraph into the Transportation Trust Fund
 7 created under ~~Article VII, Section 27 of the Constitution of Louisiana~~ **La. Const.**
 8 **Art. VII, Section 27.**

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

13 §388.1. Penalties; multiple violations

14 Whoever owns or drives any vehicle or combination of vehicles in violation
 15 of two or more of the provisions of this Part at any one time shall be assessed the
 16 greater or the greatest of the penalties, in the full amount of the penalty. The
 17 ~~commissioner~~ **department** is hereby authorized to promulgate rules and regulations
 18 to provide that in addition to assessment of the greater or greatest penalty, the owner
 19 or driver shall be assessed a penalty not to exceed ten dollars for each other violation
 20 committed at the same time; however, such rules and regulations shall only be
 21 promulgated provided the Federal Highway Administration initiates official
 22 sanctions which would result in the loss of National Highway System apportionment
 23 or other federal funds should such penalties for multiple violations not be provided.

24 §389. Weights and standards **stationary scale** police; enforcement procedure;
 25 payment and collection procedures; administrative review

26 A. The weights and standards **stationary scale** police force and the state
 27 police shall have concurrent authority to enforce the provisions of R.S. 32:380
 28 through 388.1 and R.S. 32:390.

29 B. Any weights and standards **stationary scale** police officer having reason

1 to believe that any vehicle or combination of vehicles exceeds or is in violation of
2 the provisions of R.S. 32:380 through R.S. 32:386 or R.S. 32:388.1 through R.S.
3 32:390, or the terms and conditions of a special permit issued under R.S. 32:387 or
4 regulations of ~~either the Department of Transportation and Development or the~~
5 ~~Department of Public Safety and Correction, public safety services~~ **the department**
6 **or secretary**, adopted pursuant to this Part, is authorized to stop such vehicle or
7 combination of vehicles and to inspect, measure, or weigh such vehicle, either by
8 means of portable or stationary scales, or to require that such vehicle be driven to the
9 nearest available location equipped with facilities to inspect, measure, or weigh such
10 vehicle.

11 (1) Any state policeman having reason to believe that any vehicle or
12 combination of vehicles exceeds or is in violation of the provisions of R.S. 32:380
13 through R.S. 32:386 or R.S. 32:388.1 through R.S. 32:390, or the terms and
14 conditions of a special permit issued under R.S. 32:387 or regulations **of the**
15 **department or secretary** adopted pursuant to this Part is authorized to stop such
16 vehicle or combination of vehicles and to inspect or measure such vehicle or to
17 require that such vehicle be driven to the nearest available location equipped with
18 facilities to inspect or measure such vehicle, provided that any state policeman
19 having reason to believe that any vehicle or combination of vehicles exceeds or is in
20 violation of the provisions of R.S. 32:386, any overweight special permit as provided
21 in R.S. 32:387, or the **department's** regulations adopted pursuant thereto, may escort
22 such vehicle to the nearest permanent or portable scale operated by the **department's**
23 weights and standards police force, where a weights and standards police officer
24 shall weigh such vehicle and if such vehicle is overweight, is in violation of an
25 overweight special permit, or the department's or secretary's regulations adopted
26 pursuant thereto, shall issue a violation ticket in accordance with Subsection C of this
27 Section.

28 C.(1) Whenever any carrier, common carrier, contract carrier, private carrier,
29 transport vehicle, or driver is found in violation of any provision of this Chapter, the

1 commissioner or secretary shall send the responsible party a "Notice of Violation,
2 Proposed Finding and Proposed Civil Penalty", hereafter referred to as a "notice of
3 violation", within thirty calendar days of the violation.

4 (2)(a) Each notice of violation shall clearly indicate if a monetary penalty is
5 assessed for the violation or if the notice of violation is only a warning. When a
6 monetary penalty is assessed, each notice of violation shall be sent to the responsible
7 party by certificate of mailing. Such notice of violation shall also contain notice that
8 the responsible party shall have forty-five calendar days from the date of issuance
9 of the notice of violation to either pay the monetary penalty for the violation or to
10 request, in writing, an administrative hearing to review the notice of violation. When
11 the amount of the civil penalty is negotiated between the commissioner or secretary
12 and the responsible party, the commissioner or secretary shall send written
13 notification to the responsible party of the amount of the negotiated civil penalty
14 within thirty calendar days of the date of the final negotiation. Such payment shall
15 be made by certified check, money order, or credit card. If made by credit card, the
16 payment shall be deemed received by the commissioner or secretary when tendered
17 and an approval code is obtained from the credit card company or credit card
18 processor.

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

25 (3) If the commissioner or secretary fails to issue the notice of violation to
26 the responsible party within thirty calendar days of the violation in accordance with
27 the provisions of this Section, the violation shall be dismissed. However, the
28 commissioner or secretary shall be granted an additional sixty calendar days to send
29 the responsible party a notice of violation in accordance with the provisions of this

1 Section if he experiences a data system failure caused by either an act of God or an
2 intentional act of sabotage.

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

5 D.(1) If a carrier is determined to be the responsible party for a notice of
6 violation by the commissioner **or secretary** and, if ~~such~~ **the** carrier fails to pay the
7 assessed penalty within forty-five calendar days of issuance of the notice of
8 violation, or in the case of an administrative hearing, the responsible party fails to
9 pay the assessed fine within thirty calendar days of receiving a notice of final
10 judgment from the administrative law judge, the outstanding penalty amount shall
11 be posted on the commissioner's **or secretary's** official web site. The outstanding
12 penalty amount for such responsible party shall continue to appear on the web site
13 until all fines and fees are paid in full. The commissioner **or secretary** shall transmit
14 the vehicle identification number of the offending vehicle for which the notice of
15 violation was written to the office of motor vehicles. The office of motor vehicles
16 shall not renew the registration of the offending vehicle until all fines and fees
17 associated with the notice of violation have been paid in full. Within seven calendar
18 days of receiving documentation from the responsible party that all fines and fees
19 have been paid in full, the commissioner **or secretary** shall remove the posting of
20 the notice of violation from his web site. Additionally, upon payment of all fines and
21 fees associated with the notice of violation, the office of motor vehicles shall
22 immediately authorize renewal of the vehicle's registration. Such payment shall be
23 made by certified check, money order, or credit card. If made by credit card, the
24 payment shall be deemed received by the commissioner **or secretary** when tendered
25 and an approval code is obtained from the credit card company or credit card
26 processor.

27 (2) If the driver of a motor vehicle is found to be the responsible party for a
28 notice of violation by the commissioner **or secretary**, the driver shall be responsible
29 for the payment of all fines and fees associated with issuance of the notice of

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

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

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

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

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

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

13 H. The failure of any vehicle or combination of vehicles to stop at a weigh
 14 facility may be excused if stopping the vehicle or combination of vehicles creates a
 15 serious traffic hazard. The commissioner or secretary shall promulgate rules under
 16 the provisions of the Administrative Procedure Act to implement the provisions of
 17 this Subsection. ~~Such~~ These rules shall define "serious traffic hazard" and shall
 18 authorize the use of green traffic signal lights to allow vehicles to pass the weigh
 19 facility at ~~such~~ times as vehicles have accumulated on the entrance ramp to the weigh
 20 facility to the extent that the vehicles present a traffic hazard. Rules previously
 21 adopted by the department shall remain in full force and effect until such time as the
 22 commissioner or secretary promulgates rules pursuant to this Subsection. ~~Rules~~
 23 ~~adopted hereunder~~ These rules shall be subject to oversight by the House and Senate
 24 committees on transportation, highways and public works.

25 * * *

26 §392. Impounding of vehicles; prohibitions

27 A.(1) Upon discovery of any vehicle operated in violation of this Chapter, the
 28 vehicle shall not be impounded but ~~shall~~ may be directed to and followed by the
 29 weights and standards police officer or state policeman to the nearest appropriate

1 place suitable for unloading to its licensed gross weight or maximum size
 2 requirements as provided in this Chapter and storage of said product to preserve it
 3 for its intended use in commerce and in either case shall be detained or unloaded at
 4 the expense and responsibility of the owner or driver. The ~~commissioner~~
 5 **department** shall not detain or impound any vehicle issued a violation ticket for any
 6 violation of the provisions of R.S. 32:380 through 387 prior to the final disposition
 7 of the violation ticket. **For purposes of this Section, "final disposition" shall be**
 8 **defined as a final decision, not capable of appeal or review.**

9 * * *

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

12 §408. Offices; purposes and functions

13 * * *

14 B. * * *

15 **(3) Within the office of state police there shall be a Weights and**
 16 **Standards Mobile Police Force which shall perform the functions of the state**
 17 **related to the enforcement of R.S. 32:380 through 388.1, R.S. 32:390, and R.S.**
 18 **47:718, and the provisions of Chapter 4 of Subtitle II of Title 47 relating to**
 19 **trucks, trailers, and semi-trailers and Part V of Chapter 7 of Subtitle II of Title**
 20 **47 of the Louisiana Revised Statutes of 1950 and the department's regulations**
 21 **adopted pursuant thereto.**

22 * * *

23 §409. Transfer of agencies to Department of Public Safety and Corrections

24 * * *

25 C. The following agencies, as defined by R.S. 36:3, are transferred to and
 26 hereafter shall be within the Department of Public Safety and Corrections, as
 27 provided in R.S. 36:802:

28 * * *

29 (8) The Weights and Standards Police Force **(mobile units only)** (R.S.

1 40:1379.8). The Weights and Standards Police Force shall perform the functions of
 2 the state related to the enforcement of R.S. 32:380 through 388, R.S. 32:388.1, R.S.
 3 32:390, and R.S. 47:718, and the provisions of Chapter 4 of Subtitle II of Title 47
 4 relating to trucks, trailers, and semi-trailers and Part V of Chapter 7 of Subtitle II of
 5 Title 47 of the Louisiana Revised Statutes of 1950 and the department's regulations
 6 adopted pursuant thereto.

7 * * *

8 Section 3. R.S. 40:1379.8 is hereby amended and reenacted to read as follows:

9 §1379.8. Weights and Standards **Mobile** Police Force

10 A. The Weights and Standards **Mobile** Police Force is hereby created within
 11 the Department of Public Safety and Corrections, public safety services.

12 B. Members of the Weights and Standards **Mobile** Police Force ~~who are~~
 13 ~~commissioned by the deputy secretary~~ of the Department of Public Safety and
 14 ~~Corrections, public safety services, and~~ who receive P.O.S.T. certification training,
 15 are considered peace officers and shall have the authority to enforce the criminal and
 16 traffic laws of the state, apprehend criminals and make arrests, and perform other
 17 related duties imposed upon them by the legislature. As peace officers, they shall
 18 also have, in any part of the state, the same powers with respect to criminal matters
 19 and the enforcement of the law relating thereto as sheriffs, constables, and police
 20 officers have in their respective jurisdictions. No member of the Weights and
 21 Standards **Mobile** Police Force shall be authorized to carry a weapon until the
 22 member has received P.O.S.T. certification training.

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

25 §511.1. Temporary permits

26 * * *

27 B. The Weights and Standards Police Force **of the Department of**
 28 **Transportation and Development** is hereby authorized and empowered to issue
 29 temporary permits on behalf of the commissioner and to enforce the provisions of

1 this Section.

2 C. If upon inspecting a vehicle or combination of vehicles it is found that it
3 has no temporary permit, the weights and standards **stationary scales** police officer
4 or other enforcement officer of the ~~commissioner~~ **Department of Public Safety** may
5 impound the vehicle and may require the operator to purchase forthwith a temporary
6 permit. Two hundred dollars shall be added to the cost of purchasing a temporary
7 permit as a penalty.

8 D. Payments for penalties under this Section shall be remitted to the
9 ~~commissioner~~ **Department of Transportation and Development**. ~~Such~~ **The**
10 payment shall be made by certified check, money order, or credit card. If payment
11 is made by credit card, the payment shall be deemed received by the commissioner
12 **or secretary** when tendered and an approval code is obtained from the credit card
13 company or credit card processor.

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

26 * * *

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

29 A. The commissioner; **or the division of state police,** weights and standards

1 police officers; of the Department of Transportation and Development or other
 2 proper legal authority, ~~shall~~ have the right and power at any time and place to
 3 investigate, in any lawful manner, and inspect, at any time and place, any vehicle,
 4 with respect to its registration, license, tax payment or other manner or thing
 5 contemplated by or provided for in this Chapter. To that end the commissioner or
 6 secretary may select, appoint or designate inspectors, acquire the necessary scales
 7 or other equipment incident to their functioning, and where necessary may cause the
 8 owner or driver of any vehicle to move the same or cause it to be moved, forthwith,
 9 to the nearest scales available in the direction of destination.

10 B. * * *

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

21 * * *

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

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

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

* * *

C. All penalties collected for violation of this Section shall be paid to the ~~deputy~~ secretary of the Department of Public Safety and Corrections, ~~public safety services,~~ **or the Department of Transportation and Development, whichever agency issued the violation ticket,** who shall pay said penalties 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 shall be credited to the Bond Security and Redemption Fund. After a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable 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 Subsection into the Transportation Trust Fund.

* * *

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

* * *

C. All specific penalties collected by the Department of Public Safety and Corrections, ~~public safety services,~~ **or the Department of Transportation and**

1 **Development** in accordance with this Part shall be paid to the ~~deputy~~ secretary of the
2 Department of Public Safety and Corrections, ~~public safety services,~~ **or the**
3 **Department of Transportation and Development, whichever agency issued the**
4 **violation ticket or notices,** who shall pay said penalties into the state treasury on or
5 before the twenty-fifth day of each month following their collection and, in
6 accordance with Article VII, Section 9 of the Constitution of Louisiana, such funds
7 shall be credited to the Bond Security and Redemption Fund. **After a sufficient**
8 **amount is allocated from that fund to pay all obligations secured by the full**
9 **faith and credit of the state which become due and payable within any fiscal**
10 **year, the treasurer shall pay an amount equal to the fees paid into the Bond**
11 **Security and Redemption Fund pursuant to this Subsection into the**
12 **Transportation Trust Fund.**

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

15 Section 6. The items that 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 of 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 that is
28 filed, initiated, or otherwise pending before any court or hearing agency on the effective date
29 of this Act, and all documents involved or affected by said legal proceeding shall retain their

1 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 civilian employees engaged in the performance of the functions of the
7 Weights and Standards Stationary Scales Police Force, the provisions of which are amended
8 or transferred by this Act, are hereby assigned to the Department of Transportation and
9 Development and, shall insofar as practicable and necessary continue to perform duties
10 heretofore assigned, 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 that will
12 impair the contractual or other obligations of any agency, office, or department of this state.

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

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

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

The original instrument was prepared by Xavier Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

DIGEST

SB 190 Reengrossed

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 that after a sufficient amount of penalties collected by the commissioner is allocated to 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 penalties into the Bond Security and Redemption Fund into the Transportation Trust Fund.

Proposed law specifics that after a sufficient amount is allocated from the fund to pay all obligations secured by the state, which becomes due and payable within any fiscal year, 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),(16) 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 days to 45 days.
4. Defines "final disposition".

Senate Floor Amendments to engrossed bill

1. Makes technical changes.