Regular Session, 2013

HOUSE BILL NO. 225

#### BY REPRESENTATIVE HOWARD

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

MTR VEHICLE/COMMERCIAL: Provides citations issued by the weights and standards police force or state police for violations of weight, size, or load violations while in Sabine Parish shall be disposed of as traffic citations by courts in Sabine Parish

1	AN ACT
2	To amend and reenact R.S. 32:388(F) and (G)(1), 389(B)(1), (D)(1), (2), and (3), and (E)(2)
3	and to enact R.S. 16:1(E) and R.S. 32:388.2, 389(C)(5), 398.1(D), and 398.2(G),
4	relative to size, width, and load violations in Sabine Parish; to provide for the
5	disposition of certain violations related to size, width, and load in Sabine Parish; to
6	provide relative to the authority of the district attorney for Sabine Parish; to provide
7	for penalty dispositions; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 16:1(E) is hereby enacted to read as follows:
10	§1. District attorneys; election; term; qualifications; assistants; powers and duties
11	* * *
12	E. The district attorney for Sabine Parish shall have charge of all citations
13	issued pursuant to R.S. 32:389.1(B) in the parish.
14	Section 2. R.S. 32:388(F) and (G)(1), 389(B)(1), (D)(1), (2), and (3), and (E)(2) are
15	hereby amended and reenacted and R.S. 32:388.2, 389(C)(5), 398.1(D), and 398.2(G) are
16	hereby enacted to read as follows:
17	§388. Penalties; payments
18	* * *

### Page 1 of 7

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

29

1	F.(1) Except for in Sabine Parish, Payments payments for penalties imposed
2	by the Department of Public Safety and Corrections, public safety services, shall be
3	remitted to the Transportation Trust Fund. However, any payments for citations for
4	weight limit violations on parish roads in a parish shall be paid to the public works
5	department of said parish.
6	(2)(a) To pay for all costs associated with citations issued pursuant to R.S.
7	32:389(B)(1), each month the Sabine Parish Sheriff's Office shall deposit into the
8	treasury of the parish an amount equal to twenty percent of the total fines and
9	penalties imposed by the court for civil citations issued in Sabine Parish pursuant to
10	<u>R.S. 32:389(B)(1).</u>
11	(b) After satisfying the requirements of Subparagraph (a) of this Paragraph,
12	all other monies from fines and penalties imposed by the court for civil citations
13	issued in Sabine Parish pursuant to R.S. 32:389(B)(1) shall be deposited as follows:
14	(i) Any monies collected for violations issued on state roads in Sabine Parish
15	shall be remitted by the state treasurer to the Transportation Trust Fund.
16	(ii) Any monies collected for weight violations issued on parish roads in
17	Sabine Parish shall be remitted by the state treasurer to the public works department
18	of Sabine Parish.
19	G.(1) All such penalties collected by the commissioner or the Sabine Parish
20	Sheriff's Office shall be paid into the state treasury on or before the twenty-fifth day
21	of each month following their collection and, in accordance with Article VII, Section
22	9 of the Constitution of Louisiana, shall be credited to the Bond Security and
23	Redemption Fund. However, after a sufficient amount of the penalties collected by
24	the commissioner is allocated from the fund to pay all obligations secured by the full
25	faith and credit of the state within any fiscal year, the treasurer shall pay an amount
26	equal to the fees paid into the Bond Security and Redemption Fund pursuant to this
27	Paragraph into the Transportation Trust Fund created under Article VII, Section 27
28	of the Constitution of Louisiana.
29	* * *

Page 2 of 7

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	\$298.2 Disposition of panalties: Schine Derich
	<u>§388.2. Disposition of penalties; Sabine Parish</u>
2	A court of proper jurisdiction in Sabine Parish shall have the same authority
3	as conferred upon the secretary or commissioner relative to the imposition of
4	penalties for violations of R.S. 32:380 through 386, 388.1, 388.2, and 390, or of any
5	permit issued, or regulation adopted pursuant to this Part. Notwithstanding any
6	provision to the contrary, no other costs, penalties, or fines may be assessed for
7	violations of R.S. 32:380 through 386, 388.1, 388.2, and 390 that occur in Sabine
8	Parish.
9	* * *
10	§389. Weights and standards police; enforcement procedure; payment and
11	collection procedures; administrative review
12	* * *
13	В.
14	* * *
15	(1) Any state policeman having reason to believe that any vehicle or
16	combination of vehicles exceeds or is in violation of the provisions of R.S. 32:380
17	through <del>R.S. 32:</del> 386, or R.S. 32:388.1, <u>389, and</u> through R.S. 32:390, or the terms
18	and conditions of a special permit issued under R.S. 32:387 or regulations adopted
19	pursuant to this Part is authorized to stop such vehicle or combination of vehicles and
20	to inspect or measure such vehicle or to require that such vehicle be driven to the
21	nearest available location equipped with facilities to inspect or measure such vehicle,
22	provided that any state policeman having reason to believe that any vehicle or
23	combination of vehicles exceeds or is in violation of the provisions of R.S. 32:386,
24	any overweight special permit as provided in R.S. 32:387, or the regulations adopted
25	pursuant thereto, may escort such vehicle to the nearest permanent or portable scale
26	operated by the weights and standards police force, where a weights and standards
27	police officer shall weigh such vehicle and if such vehicle is overweight, is in
28	violation of an overweight special permit, or the department's or secretary's
29	regulations adopted pursuant thereto, shall issue a violation ticket in accordance with

1	Subsection C of this Section: however, if the violation occurs in Sabine Parish, the
2	state policeman shall issue a civil citation in compliance with R.S. 32:398.1, and
3	dispose of such citation as provided for in R.S. 32:398.2.
4	С.
5	* * *
6	(5) Paragraphs (1) through (4) of this Subsection shall not apply to civil
7	citations issued in Sabine Parish pursuant to Subsection B of this Section.
8	D.(1) If a carrier is determined to be the responsible party for a notice of
9	violation by the commissioner or court, if the civil citation was issued in Sabine
10	Parish, and, if such carrier fails to pay the assessed penalty within forty-five calendar
11	days of issuance of the notice of violation or the issuance of a civil citation in Sabine
12	Parish, or in the case of an administrative hearing or judgment issued by a court in
13	Sabine Parish, the responsible party fails to pay the assessed fine within thirty
14	calendar days of receiving a notice of final judgment from the administrative law
15	judge or district court, the outstanding penalty amount shall be posted on the
16	commissioner's official web site website. The outstanding penalty amount for such
17	responsible party shall continue to appear on the web site website until all fines and
18	fees are paid in full. The commissioner shall transmit the vehicle identification
19	number of the offending vehicle for which the notice of violation or civil citation was
20	written to the office of motor vehicles. The office of motor vehicles shall not renew
21	the registration of the offending vehicle until all fines and fees associated with the
22	notice of violation or civil citation have been paid in full. Within seven calendar
23	days of receiving documentation from the responsible party that all fines and fees
24	have been paid in full, the commissioner shall remove the posting of the notice of
25	violation from his web site website. Additionally, upon payment of all fines and fees
26	associated with the notice of violation or civil citation, the office of motor vehicles
27	shall immediately authorize renewal of the vehicle's registration. Such payment shall
28	be made by certified check, money order, or credit card. If made by credit card, the

1

2

payment shall be deemed received by the commissioner when tendered and an approval code is obtained from the credit card company or credit card processor.

(2) If the driver of a motor vehicle is found to be the responsible party for 3 4 a notice of violation by the commissioner or civil citation, the driver shall be 5 responsible for the payment of all fines and fees associated with issuance of the notice of violation or civil citation. Such payment shall be made by certified check, 6 7 money order, or credit card, or if in Sabine Parish, by any method by which the 8 Sabine Parish Sheriff's Office accepts payment. If made by credit card, the payment 9 shall be deemed received by the commissioner or Sabine Parish Sheriff's Office 10 office when tendered and an approval code is obtained from the credit card company 11 or credit card processor. If the commissioner or Sabine Parish Sheriff's Office fails 12 to receive payment within forty-five calendar days of issuance of the notice of 13 violation or civil citation, or in the case of an administrative hearing or judgment 14 issued by a court in Sabine Parish, the responsible party fails to pay the assessed 15 penalty within thirty calendar days of receiving a notice of final judgment from the 16 administrative law judge or a judgment issued by a court in Sabine Parish, the 17 commissioner shall transmit the driver's license number to the office of motor 18 vehicles. Upon receipt of the driver's license number, the office of motor vehicles 19 shall immediately notify the driver, by first class mail, that his driver's license shall 20 be suspended thirty calendar days after the date of mailing the notice unless all fines 21 and fees associated with the notice of violation or civil citation or final judgment 22 from the administrative law judge or a judgment issued by a court in Sabine Parish 23 are paid in full together with notice of the imposition of a fifty-dollar fee by the 24 office of motor vehicles to cover its administrative costs. The driver's license shall remain suspended until all fines and fees associated with the notice of violation or 25 26 civil citation or final judgment from the administrative law judge or a judgment 27 issued by a court in Sabine Parish and the fifty-dollar fee for the office of motor vehicles are paid in full. Upon payment of all fines and fees, the office of motor 28 29 vehicles shall immediately authorize the reinstatement of the driver's license.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(3) Motor carriers shall not be responsible for driver violations or civil
2	violations found to be the fault of the driver.
3	E.
4	* * *
5	(2) In the event a motor vehicle for which a notice of violation or civil
6	citation has been issued is subsequently sold, the new owner of such vehicle shall not
7	be responsible for any outstanding fines or fees associated with a notice of violation
8	or civil citation. The new owner of the motor vehicle shall present proper
9	documentation to the commissioner or district court evidencing the lawful transfer
10	of ownership.
11	* * *
12	\$398.1. Traffic citations; form; issuance
13	* * *
14	D. All citations issued by a state policeman in Sabine Parish pursuant to R.S.
15	32:389(B)(1) shall be considered civil citations.
16	* * *
17	§398.2. Disposition of traffic citations; unlawful acts; records
18	* * *
19	G. No civil citation issued by a state policeman in Sabine Parish pursuant to
20	R.S. 32:389(B)(1) shall be interpreted as creating a criminal violation.

## 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)]

### Howard

HB No. 225

Abstract: Provides citations issued by the weights and standards police force or state police for violations of weight, size, or load violations while in Sabine Parish shall be disposed of as traffic citations by courts in Sabine Parish

<u>Present law</u> provides that the secretary of Dept. of Transportation and Development (DOTD) or deputy secretary of Dept. of Public Safety and Corrections (DPS&C), public safety services, may impose civil penalties for violations of law pertaining to violations of size, width, or load laws committed in any parish.

# Page 6 of 7

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Proposed law</u> provides that a court of proper jurisdiction in Sabine Parish may impose any penalty that the secretary of DOTD or deputy secretary of DPS&C, public safety services, may impose for violations pertaining to violations of size, width, or load laws committed in Sabine Parish.

<u>Present law</u> provides that payments for penalties imposed for violations of size, width, or load laws in any parish shall be remitted to the Transportation Trust Fund. However, any payments for citations for weight limitations on parish roads in a parish shall be paid to the public works department of said parish.

<u>Proposed law</u> provides that the disposition of payment for penalties imposed for violations of laws pertaining to the size, width, or load of a vehicle issued while in Sabine Parish shall be made as follows:

- (1) An amount not to exceed 20% of total fines and penalties received each month shall be deposited into the treasury of Sabine Parish to pay for all costs associated with the alleged violations.
- (2) All monies remaining after satisfying the requirements of <u>proposed law</u> shall be transmitted to the state treasurer, who shall deposit such monies as are necessary for the requirements of the Bond Security and Redemption Fund, and thereafter deposit all remaining monies to into the Transportation Trust Fund unless the violation occurred on a parish road. Any payments for citations for weight limitations on a Sabine Parish road shall be remitted to the state treasurer and paid to the public works department of Sabine Parish.

<u>Present law</u> provides that any person violating laws pertaining to size, width, or load of a vehicle in any parish shall be issued a notice of violation with a civil penalty being assessed by the deputy secretary of DPS&C, public safety services, subject to review by an administrative law judge. Any decision by an administrative law judge can be appealed in a state district court with proper venue over the matter.

<u>Proposed law</u> provides that violations of laws pertaining to the size, width, or load of a vehicle while in Sabine Parish shall be disposed of as a civil traffic ticket to be prosecuted by the district attorney in Sabine Parish and shall result in a civil penalty.

(Amends R.S. 32:388(F) and (G)(1), 389(B)(1), (D)(1), (2), and (3), and (E)(2); Adds R.S. 16:1(E) and R.S. 32:388.2, 389(C)(5), 398.1(D), and 398.2(G))