

2016 Regular Session

SENATE BILL NO. 113

BY SENATOR CORTEZ

MOTOR CARRIERS. Provides relative to transporters of hazardous materials. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 32:1512(B) and to enact R.S. 32:1512(E) and 1520(C), relative
3 to the transportation of hazardous substances; to authorize consideration of
4 measurable harm in the assessment of civil penalties; to prohibit the imposition of
5 a civil penalty on a person who transports hazardous materials in certain
6 circumstances; to prohibit the issuance of a citation for careless handling of
7 hazardous materials in certain circumstances; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 32:1512(B) is hereby amended and reenacted and R.S. 32:1512(E)
10 and 1520(C) are hereby enacted to read as follows:

11 §1512. Civil penalties; assessment

12 * * *

13 B. In determining the amount of the penalty, the secretary shall take into
14 account the nature, circumstances, extent, and gravity of the violation; the degree of
15 culpability of the person charged; the person's history of previous offenses and
16 ability to pay; the effect of the penalty on the person's ability to continue to operate;
17 **the amount of measurable harm, the potential for measurable harm, or the total**

1 **lack of harm resulting from the violation;** and any other matters that justice
2 requires.

3 * * *

4 **E. The secretary shall not subject a person to a civil penalty for a**
5 **careless handling violation as defined in R.S. 32:1520(A) when that person or**
6 **his representative reports an incident involving a hazardous material that does**
7 **not meet the reporting criteria as set forth in R.S. 32:1510.**

8 * * *

9 §1520. Careless handling of hazardous material

10 * * *

11 **C. A person shall not be cited with a violation of this Section when that**
12 **person or his representative reports an incident involving a hazardous material**
13 **that does not meet the reporting criteria as set forth in R.S. 32:1510.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Dawn Romero Watson.

DIGEST

SB 113 Original 2016 Regular Session Cortez

Present law provides that the offering or accepting for transportation, loading or unloading, or transporting of hazardous materials, freight, and passengers in accordance with minimum state standards of safety is the responsibility of the state.

Proposed law retains present law.

Present law requires that a person report to the DPS&C an incident or accident that presents a continuing danger to life, health, or property at the place of the incident or accident when the incident or accident results in the release of a hazardous material as defined in federal law or involving circumstances as defined in state law.

Proposed law retains present law.

Present law provides that any person who is determined by the secretary (after hearing) to have committed an act in violation of the state standards of safety shall be subject to a penalty of not more than \$25,000, and if the violation is a continuing one, each day of the violation constitutes a separate offense. In determining the amount of the civil penalty, present law authorizes the secretary to consider:

- (1) The nature, circumstance, extent and gravity of the violation.
- (2) The degree of culpability of the person charged.
- (3) The person's history of previous offenses and ability to pay.

- (4) The effect of the penalty on the person's ability to continue to operate.
- (5) Any other matters that justice requires.

Proposed law retains present law and adds as a consideration by the secretary in determining the amount of the civil penalty the amount of measurable harm, the potential for measurable harm or total lack of harm resulting from the violation.

Proposed law also adds that the secretary shall not subject a person to a civil penalty when that person or his representative reports a release of a hazardous material that is not of a reportable quantity.

Present law provides that any person who offers or accepts for transportation, loads or unloads, or transports a hazardous material or hazardous waste in a careless or imprudent manner without regard for the hazards of the material or the circumstances of such actions shall be guilty of careless handling.

Proposed law retains present law and provides that a person shall not be cited for violating present law (careless handling) when that person or his representative reports a release of a hazardous material that is not of a reportable quantity.

Effective August 1, 2016.

(Amends R.S. 32:1512(B); adds R.S. 32:1512(E) and 1520(C))