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## DIGEST

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HB 625 Original

2016 Regular Session

Terry Landry

**Abstract:** Provides relative to factors used in determining the amount of civil penalties assessed on certain carriers after incidents involving hazardous material and when civil penalties, citations, or violations for incidents will not be imposed or issued.

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 (R.S. 32:1510) requires each person involved in an incident, accident, or the cleanup of an incident or accident during the transportation, loading, unloading, or related storage in any place of a hazardous material shall report immediately by electronic or telephonic notification to the Dept. of Public Safety and Corrections (DPS&C) if that incident, accident, or cleanup of an incident or accident involves:

- (1) A fatality due to fire, explosion, or exposure to any hazardous material.
- (2) The hospitalization of any person due to fire, explosion, or exposure to any hazardous material.
- (3) A continuing danger to life, health, or property at the place of the incident or accident under certain circumstances.
- (4) An estimated property damage of more than \$10,000.

Proposed law retains present law.

Present law provides that any person who is determined by the DPS&C, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act in violation of present law or any regulation issued thereunder, is subject to a civil penalty of not more than \$25,000. Provides that if the violation is a continuing one, each day of violation is a separate offense.

Proposed law retains present law.

Present law provides that in determining the amount of the penalty, DPS&C shall take into account the nature, circumstances, extent, and gravity of the violation; the degree of culpability of the person charged; the person's history of previous offenses and ability to pay; the effect of the penalty on the person's ability to continue to operate; and any other matters that justice requires.

Proposed law adds that DPS&C shall also take into account in assessing the penalty: the amount of measurable harm, the potential for measurable harm, or the total lack of harm resulting from the violation.

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 prohibits a person from being cited for violating present law (careless handling) when that person or his representative reports an incident involving a hazardous material that does not meet the reporting criteria as set forth in present law (R.S. 32:1510).

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