

Regular Session, 2011

HOUSE BILL NO. 167

BY REPRESENTATIVES HOWARD AND SMILEY

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

TRAFFIC: Revises failure to stop or yield penalty provisions

1 AN ACT

2 To amend and reenact R.S. 32:57(A) and 125(D), to enact R.S. 32:171(F)(5) and to repeal  
3 R.S. 32:123(E), relative to penalties for traffic violations; to provide for enhanced  
4 penalties for failure to yield violations resulting in injury or death; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 32:57(A) and 125(D) are hereby amended and reenacted and R.S.  
8 32:171(F)(5) is hereby enacted to read as follows:

9 §57. Penalties; alternatives to citation

10 A.(1) The first violation of the provisions of this Chapter or any regulation  
11 of the department, secretary, and commissioner made pursuant thereto shall be  
12 punished by a fine of not more than one hundred seventy-five dollars or by  
13 imprisonment for not more than thirty days, or both, unless otherwise specifically  
14 provided. A subsequent violation shall be punished by a fine of not more than five  
15 hundred dollars or by imprisonment for not more than ninety days, or both.

16 (2) Any person who is found guilty of or pleads guilty or nolo contendere to  
17 a violation of R.S. 32:75, 79, 103, 104, 121, 122, 123, 124, 125, 171, 203, 212, or  
18 219 shall be subject to the following penalties:

19 (a) If the violation results in the injury of another person, the offender shall  
20 be fined not less than two hundred dollars nor more than five hundred dollars and

1 may be subjected to a driver's license suspension for a period of up to ninety days,  
2 or both.

3 (b) If the violation results in the serious bodily injury of another person, the  
4 offender shall be fined not less than five hundred dollars nor more than one thousand  
5 dollars and may be subjected to a driver's license suspension for a period of up to one  
6 hundred eighty days, or both. The offender may be subjected to imprisonment for  
7 a maximum of six months.

8 (c) If the violation results in the death of another person, the offender shall  
9 be fined not less than one thousand dollars nor more than five thousand dollars and  
10 may be subjected to a driver's license suspension for a period of up to three hundred  
11 sixty days, or both. The offender may be subject to imprisonment for a maximum of  
12 twelve months.

13 (3) For purposes of this Subsection, "serious bodily injury" shall mean a  
14 bodily injury which involves unconsciousness, extreme physical pain, or protracted  
15 and obvious disfigurement, protracted loss or impairment of the function of a bodily  
16 member, organ, or mental faculty, or a substantial risk of death.

17 (4) The penalties provided for in Paragraph (2) of this Subsection are in  
18 addition to any other penalties imposed by law.

19 \* \* \*

20 §125. Procedure on approach of an authorized emergency vehicle; passing a parked  
21 emergency vehicle

22 \* \* \*

23 D. Any person who violates the provisions of this Section shall, upon  
24 conviction, be subject to a fine not to exceed two hundred dollars. In addition to the  
25 penalties imposed by this Subsection, the penalties provided for in R.S. 32:57(A)(2)  
26 shall be imposed for violations of this Section that result in the injury of another  
27 person, the serious bodily injury of another person as defined by R.S. 32:57(A)(3),  
28 or the death of another person.

29 \* \* \*

1 §171. Obedience to signal indicating approach to train; reporting violations;  
2 penalties

3 \* \* \*

4 F. Any person who violates any provision of this Section shall be fined as  
5 follows:

6 \* \* \*

7 (5) In addition to the penalties imposed by this Subsection, the penalties  
8 provided for in R.S. 32:57(A)(2) shall be imposed for violations of this Section that  
9 result in the injury of another person, the serious bodily injury of another person as  
10 defined by R.S. 32:57(A)(3), or the death of another person.

11 \* \* \*

12 Section 2. R.S. 32:123(E) is hereby repealed in its entirety.

13 Section 3. This Act shall be designated as the "2011 Pickholtz Act".

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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)]

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Howard

HB No. 167

**Abstract:** Enhances penalties for certain traffic violations relating to failure to yield to traffic when death or serious bodily injury occurs.

Present law provides that no vehicle shall be driven to the left side of the center of the highway in passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic.

Present law provides that whenever any roadway has been divided into two or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has determined he can do so safely and that drivers shall obey all signs directing traffic to move in a particular direction.

Present law provides that no person shall move a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

Present law provides that no person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety.

Present law provides that when two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

Present law provides that the driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to all vehicles approaching from the opposite direction which are within the intersection or so close thereto as to constitute an immediate hazard.

Present law provides the driver of a vehicle about to enter or cross a highway from a private road, driveway, alley, or building, shall stop immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and shall yield the right-of-way to all approaching vehicles so close as to constitute an immediate hazard.

Present law provides that any person operating a motor vehicle upon a bicycle lane shall yield the right-of-way to all bicycles and electric mobility aids within the bicycle lane.

Present law provides that when traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching closely from the opposite half of the roadway as to be in danger.

Present law provides that the driver of a motor vehicle emerging from or entering an alley, private road or driveway, or building shall yield the right-of-way to any pedestrian approaching on any sidewalk extending across such alley, road, or driveway, or building entrance.

Present law provides that the penalty for violating present law is a fine of not more than \$175 or imprisonment for not more than 30 days, or both, unless otherwise specifically provided. A subsequent violation shall be punishable by a fine of not more than \$500 or by imprisonment for not more than 90 days, or both.

Proposed law retains all of present law and provides additional penalties for operators of motor vehicles cited for failure to yield the right-of-way pursuant to present law as follows:

- (1) If the violation results in the injury of another person, the fine is not less than \$200 nor more than \$500 and a possible driver's license suspension for a period up to 90 days, or both.
- (2) If the violation results in the serious bodily injury of another person, the fine is not less than \$500 nor more than \$1,000 and a possible driver's license suspension for a period up to 180 days, or both. The offender may be subjected to imprisonment up to six months.
- (3) If the violation results in the death of another person, the fine is not less than \$1,000 nor more than \$5,000 and a possible driver's license suspension for a period up to 360 days, or both. The offender may be subject to imprisonment up to 12 months.
- (4) The penalties above are in addition to the penalties contained in present law.

Present law provides that upon the immediate approach of an authorized emergency vehicle making use of audible or visual signals, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way.

Present law provides that upon conviction of present law, a person is subject to a fine not to exceed \$200.

Proposed law retains present law and provides additional penalties for operators of motor vehicles cited for failure to yield the right-of-way to emergency or police vehicles as follows:

- (1) If the violation results in the injury of another person, the fine is not less than \$200 nor more than \$500 and a possible driver's license suspension for a period up to 90 days, or both.
- (2) If the violation results in the serious bodily injury of another person, the fine is not less than \$500 nor more than \$1,000 and a possible driver's license suspension for a period up to 180 days, or both. The offender may be subjected to imprisonment up to six months.
- (3) If the violation results in the death of another person, the fine is not less than \$1,000 nor more than \$5,000 and a possible driver's license suspension for a period up to 360 days, or both. The offender may be subject to imprisonment up to 12 months.
- (4) The penalties above are in addition to the penalties contained in present law.

Present law provides that when any person driving a motor vehicle approaches a railroad grade crossing under a number of circumstances, the driver of such vehicle shall stop and not proceed until he can do so safely.

Proposed law retains present law.

Present law provides that any person who violates any provision of present law about approaching a railroad grade crossing shall be fined as follows:

- (1) On first offense, the fine shall be not more than \$200 or imprisonment for not more than 30 days, or both. In addition, the person in violation shall be required to attend an Operation Lifesaver Course to be given by a certified Operation Lifesaver presenter within 180 days after adjudication of the citation.
- (2) On second and each subsequent offense, the fine shall not be more than \$500 or imprisonment for not more than 90 days, or both. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within 180 days after adjudication of the citation.
- (3) Any person who violates any provision of present law by racing a train to a railroad crossing and thereby causes immediate danger to any railroad crew member, the general public, or damage to any property in the immediate vicinity of the crossing shall be fined not more than \$1,000. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within 180 days after the adjudication of the citation.
- (4) If a violator fails to attend any safe driving courses required for a violation of present law, the office of motor vehicles shall suspend such violator's driving privileges for a period of 30 days.

Proposed law retains present law and provides additional penalties for operators of motor vehicles cited for failure to appropriately approach a railroad crossing as follows:

- (1) If the violation results in the injury of another person, the fine is not less than \$200 nor more than \$500 and a possible driver's license suspension for a period up to 90 days, or both.
- (2) If the violation results in the serious bodily injury of another person, the fine is not less than \$500 nor more than \$1,000 and a possible driver's license suspension for

- a period up to 180 days, or both. The offender may be subjected to imprisonment up to six months.
- (3) If the violation results in the death of another person, the fine is not less than \$1,000 nor more than \$5,000 and a possible driver's license suspension for a period up to 360 days, or both. The offender may be subject to imprisonment up to 12 months.
- (4) The penalties above are in addition to the penalties contained in present law.

Present law provides procedures by which vehicles shall stop at stop and yield signs.

Proposed law retains present law.

Present law provides that the penalty for violating present law is a fine of not more than \$175 or imprisonment for not more than 30 days, or both, unless otherwise specifically provided. A subsequent violation shall be punished by a fine of not more than \$500 or by imprisonment for not more than 90 days, or both.

Proposed law retains present law.

Present law provides that any person who is found guilty of or pleads guilty or nolo contendere to a violation of failure to yield or stop at a stop sign or yield sign shall be subject to the following penalties:

- (1) If the violation results in the injury of another person, the offender shall be fined not less than \$200 nor more than \$500 and may be subjected to a driver's license suspension for a period up to 90 days, or both.
- (2) If the violation results in the serious bodily injury of another person, the offender shall be fined not less than \$500 nor more than \$1,000 and may be subjected to a driver's license suspension for a period up to 180 days, or both.
- (3) If the violation results in the death of another person, the offender shall be fined not less than \$1,000 nor more than \$5,000 and may be subjected to a driver's license suspension for a period up to 360 days, or both.
- (4) In addition to the fines and penalties set forth in proposed law, whoever is responsible for these violations shall be subject to the following penalties:
- (a) If the violation results in serious bodily injury of another person as defined in proposed law, the offender may be subject to imprisonment up to six months.
- (b) If the violation results in the death of another person, the offender may be subject to imprisonment up to 12 months.

Proposed law repeals present law and provides for the same penalties in another provision of proposed law.

Proposed law shall be known as the "2011 Pickholtz Act".

(Amends R.S. 32:57(A) and 125(D); Adds R.S. 32:171(F)(5); Repeals R.S. 32:123(E))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Added "failure to yield to an approaching train" as a violation for which proposed law provides enhanced penalties for violating in cases of injury, serious bodily injury or death of another.
2. Made technical additions.