

2019 Regular Session

SENATE BILL NO. 207

BY SENATOR GATTI

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

CRIME/PUNISHMENT. Provides felony criminal penalties for violating any law governing the expenditure of funds in the Transportation Trust Fund. (gov sig)

1 AN ACT

2 To enact R.S. 14:140.1, relative to official misconduct and corrupt practices; to create the

3 crime of misappropriation of transportation funds; to provide felony criminal

4 penalties for knowingly expending funds from the Transportation Trust Fund in

5 violation of the state constitution or other law; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:140.1 is hereby enacted to read as follows:

8 **§140.1. Misappropriation of transportation funds**

9 **A. It shall be unlawful for any person, including a public officer or**

10 **employee, or a contractor, subcontractor, or agent or employee thereof, to**

11 **knowingly expend funds appropriated from the Transportation Trust Fund in**

12 **any manner contrary to the provisions of the state constitution or other law**

13 **governing the expenditure of such funds, or contrary to any definitions or**

14 **restrictions contained therein. A violation of this Section shall constitute**

15 **misappropriation of transportation funds.**

16 **B.(1) A person convicted under the provisions of this Section shall be**

17 **subject to the following penalties:**

1           (a) When the misappropriation amounts to a value of less than one  
2           thousand dollars, the offender shall be imprisoned, with or without hard labor,  
3           for not more than six months, or fined not more than one thousand dollars, or  
4           both.

5           (b) When the misappropriation amounts to a value of one thousand  
6           dollars or more, but less than five thousand dollars, the offender shall be  
7           imprisoned, with or without hard labor, for not more than five years, or fined  
8           not more than three thousand dollars, or both.

9           (c) When the misappropriation amounts to a value of five thousand  
10          dollars or more but less than twenty-five thousand dollars, the offender shall be  
11          imprisoned, with or without hard labor, for not more than ten years, or fined  
12          not more than ten thousand dollars, or both.

13          (d) When the misappropriation amounts to a value of twenty-five  
14          thousand dollars or more, the offender shall be imprisoned at hard labor for not  
15          more than twenty years, or fined not more than fifty thousand dollars, or both.

16          (2) In determining the amount of the misappropriation for purposes of  
17          Paragraph (1) of this Subsection, the court shall include the cost of repairing  
18          any work requiring repair that was performed by the person who has  
19          misappropriated transportation funds, and the cost of completing work for  
20          which the person was paid but the person did not complete.

21          (3) In addition to the penalties provided for in Paragraph (1) of this  
22          Subsection, the person shall be ordered to pay restitution to the state for any  
23          funds expended in violation of this Section, which restitution shall include the  
24          payment of legal interest at the rate provided in R.S. 13:4202.

25          C. The district attorney shall notify the state treasurer in writing of any  
26          prosecution under this Section within thirty days of the institution of the  
27          prosecution.

28          D. The remedies and rights provided under this Section are in addition  
29          to and shall not preclude any remedy otherwise available under law, including

1 but not limited to the provisions of R.S. 51:1401 et seq.

2 E.(1) Nothing contained in this Section shall be construed to prevent the  
3 state, through the attorney general, from asserting a cause of action to recover  
4 damages or penalties, or assess or collect a penalty, resulting from a violation  
5 of this Section.

6 (2) Any person who is found liable under a civil action brought by the  
7 attorney general resulting from a violation of this Section shall be liable to the  
8 attorney general for all costs, expenses, and fees related to investigations and  
9 proceedings associated with the violation, including attorney fees. An action to  
10 recover costs, expenses, fees, and attorney fees shall be ancillary to, and shall be  
11 brought and heard in the same court as, the civil action resulting from a  
12 violation of this Section.

13 Section 2. This Act shall become effective upon signature by the governor or, if not  
14 signed by the governor, upon expiration of the time for bills to become law without signature  
15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
16 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
17 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Alden A. Clement Jr.

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DIGEST

SB 207 Original                      2019 Regular Session                      Gatti

Proposed law provides that it is unlawful for any person, including a public officer or employee, or a contractor, subcontractor, or agent or employee thereof, to knowingly expend funds appropriated from the Transportation Trust Fund in any manner contrary to the provisions of present constitution or present law governing the expenditure of such funds, or contrary to any definitions or restrictions contained therein.

Proposed law provides that a person convicted of misappropriation of transportation funds is subject to the following penalties:

- (1) When the misappropriation amounts to a value of less than \$1,000, the offender is to be imprisoned, with or without hard labor, for up to six months, or fined up to \$1,000, or both.
- (2) When the misappropriation amounts to a value of \$1,000 or more, but less than \$5,000, the offender is to be imprisoned, with or without hard labor, for up to five years, or fined up to \$3,000, or both.

- (3) When the misappropriation amounts to a value of \$5,000 or more, but less than \$25,000, the offender is to be imprisoned, with or without hard labor, for up to 10 years, or fined up to \$10,000, or both.
- (4) When the misappropriation amounts to a value of \$25,000 or more, the offender is to be imprisoned at hard labor for up to 20 years, or fined up to \$50,000, or both.

Proposed law provides that, in determining the amount of the misappropriation for purposes of proposed law penalties, the court is to include the cost of repairing any work requiring repair that was performed by the person who has misappropriated transportation funds and the cost of completing work for which the person was paid but the person did not complete.

Proposed law provides that in addition to proposed law penalties of imprisonment and fines, the person is to be ordered to pay restitution to the state for any funds expended in violation of proposed law, and such restitution is to include the payment of legal interest at the rate provided in present law relative to rates of judicial interest.

Proposed law provides that the district attorney is to notify the state treasurer in writing of any prosecution under proposed law within 30 days of the institution of the prosecution.

Proposed law provides that the remedies and rights provided under proposed law are in addition to and do not preclude any remedy otherwise available under present law.

Proposed law provides that nothing in proposed law can be construed to prevent the state, through the attorney general, from asserting a cause of action to recover damages or penalties, or assess or collect a penalty, resulting from a violation of proposed law. Proposed law further provides that any person who is found liable under a civil action brought by the attorney general resulting from a violation of proposed law is liable to the attorney general for all costs, expenses and fees related to investigations and proceedings associated with the violation, including attorney fees. Proposed law further provides that an action to recover costs, expenses, fees, and attorney fees must be ancillary to, and be brought and heard in the same court as, the civil action resulting from a violation of proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 14:140.1)