

2016 Regular Session

SENATE BILL NO. 299

BY SENATOR MILKOVICH

MOTOR VEHICLES. Provides relative to fees, charges, penalties, and fines for certain traffic violations.(gov sig)

1 AN ACT

2 To amend and reenact R.S. 32:8(A)(1), (2), and (3), and (B), 57.1, 863(A)(3)(a) and (4), and
3 (D)(1), 863.1(C)(1), (2), (5), (6), and (7), and (I)(3), to enact R.S. 32:863.1(G)(5),
4 and to repeal R.S. 32:8(C) and 863(D)(5), relative to motor vehicles; to reduce
5 certain fees, charges, penalties, and fines for certain traffic violations; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:8(A)(1), (2), and (3), and (B), 57.1, 863(A)(3)(a) and (4), and
9 (D)(1), 863.1(C)(1), (2), (5), (6), and (7), and (I)(3) are hereby amended and reenacted and
10 R.S. 32:863.1(G)(5) is hereby enacted to read as follows:

11 §8. Final delinquent debt; office of motor vehicles

12 A. For purposes of this Section, the following words shall have the following
13 meanings unless the context clearly indicates otherwise:

14 (1) "Debt" means any ~~legally collectible liquidated~~ **authenticated** sum due
15 and owed to the Department of Public Safety and Corrections, office of motor
16 vehicles, pursuant to R.S. 32:57.1, 863, or 863.1.

17 (2) "Delinquent debt" means a ~~debt~~ **fine, fee, or other monetary sanction**

1 for which the office of motor vehicles has provided a written notice for
 2 suspension or revocation of driving privileges or motor vehicle registration
 3 privileges as provided in R.S. 32:852(E), that is sixty ninety days or more past due
 4 and for which the office of motor vehicles has proof of personal receipt of the
 5 notice by the debtor by official delivery receipt or certificate from the United
 6 States Postal Service.

7 (3) "Final debt" means the amount sum due is authenticated as delinquent
 8 debt, no longer negotiable is not subject to negotiation or dispute, and that the
 9 debtor has no further right of administrative and judicial review, except for reasons
 10 of lack of due process.

11 B. The office of motor vehicles shall may refer all final ~~delinquent debts~~ debt
 12 to the office of debt recovery as provided in R.S. 47:1676. Final ~~delinquent debt~~
 13 referrals shall include data and information in the required format necessary to
 14 institute collection procedures. All ~~delinquent debts~~ debt shall be authenticated by
 15 the office of motor vehicles prior to being referred to the office of debt recovery.
 16 Once the ~~delinquent~~ debt becomes final debt, and prior to referral to the office of
 17 debt recovery, the office of motor vehicles shall notify the debtor in writing as
 18 provided in R.S. 32:852(E) that failure to pay the debt in full or make payment
 19 arrangements with the office of motor vehicles within sixty ninety days shall
 20 subject the debt to ~~the maximum amount owed together with the additional fee~~
 21 collected by the office of debt recovery provided for in R.S. 47:1676, and that the
 22 debtor has no right to judicial review. ~~All funds collected pursuant to the~~
 23 ~~provisions of this Act shall be deposited into the Debt Recovery Fund and utilized~~
 24 ~~for the office of state police in the amount of twenty-five million dollars.~~

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§57.1. Failure to honor written promise to appear; penalty; disposition of fines

27 A. Whenever an arrested person who was released on his written promise to
 28 appear before a magistrate at the place and time specified in a summons described
 29 in R.S. 32:391(B) fails to honor his written promise to appear, the magistrate or

1 judge of the court exercising jurisdiction shall immediately forward to the
 2 Department of Public Safety and Corrections notice of the failure to appear, with
 3 information necessary for identification of the arrested person. Thereupon, unless the
 4 original charges have been disposed of, the Department of Public Safety and
 5 Corrections shall immediately notify the arrested person of suspension of his
 6 operator's license ~~and the imposition of a fifty-dollar fee, regardless of the~~
 7 ~~disposition of the original charge.~~ The Department of Public Safety and Corrections
 8 likewise shall inform the arrested person that his operator's license ~~cannot~~ **shall not**
 9 be renewed or reissued until the forwarding court exercising jurisdiction certifies that
 10 he ~~had~~ **has** honored the appearance promise or paid an appropriate fine for the
 11 offense as determined by the forwarding court exercising jurisdiction.

12 B. Whenever the arrested person makes an appearance as required by
 13 Subsection A hereof or pays an appropriate fine for the offense committed, as
 14 determined by the court, the prosecuting authority shall immediately notify the
 15 Department of Public Safety and Corrections thereof. Upon such notification and
 16 payment of ~~an additional fifty dollars~~ **a twenty-five dollar reinstatement fee** to the
 17 ~~department~~ **office of motor vehicles**, the operator's license of the arrested person
 18 shall be renewed or reissued for the purpose of this Section. Twelve dollars and fifty
 19 cents of the additional fine imposed by this Section shall be paid to the court
 20 exercising jurisdiction, to be deposited in that court's criminal court fund and to be
 21 used in the same manner as the other sums deposited in said fund.

22 C. If after ~~sixty~~ **ninety** calendar days from the date of the notification issued
 23 by the Department of Public Safety and Corrections as required in Subsection A of
 24 this Section the arrested person has failed to comply, the fees provided for in this
 25 Section ~~shall~~ **may** be considered final ~~delinquent~~ debt.

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27 §863. Sanctions for false declaration; reinstatement fees; revocation of registration;
 28 review

29 A.(1) * * *

1 (3)(a) Sanctions for a violation of Paragraph (1) of this Subsection shall be
2 imposed until proof of required liability security is provided to the secretary and all
3 reinstatement fees are paid. Sanctions for a violation of Paragraph (2) of this
4 Subsection shall be imposed for a period of not less than ~~twelve~~ **three** months nor
5 more than ~~eighteen~~ **six** months. However, in no event shall these sanctions be
6 removed until such time as proof of the required security is provided to the secretary
7 along with all appropriate fees required by law, including a reinstatement fee of ~~one~~
8 **hundred twenty-five** dollars per violation of Paragraph (1) of this Subsection if the
9 vehicle was not covered by the required security for a period of one to thirty days,
10 ~~two hundred~~ fifty dollars if the vehicle was not covered by required security for a
11 period of thirty-one to ninety days, and ~~five~~ **one** hundred dollars if the vehicle was
12 not covered by required security for a period in excess of ninety days. No
13 reinstatement fee shall be imposed by the secretary if the vehicle was not covered by
14 required security for a period of ten days or less and the insured surrenders the
15 vehicle's license plate to the secretary within ten days. The reinstatement fees for
16 violations of Paragraph (2) of this Subsection shall be as follows: ~~two hundred fifty~~
17 **twenty-five** dollars for a first violation, ~~five hundred~~ **fifty** dollars for a second
18 violation, and one ~~thousand~~ **hundred** dollars for a third or subsequent violation. The
19 reinstatement fee shall not be owed for an alleged violation of Paragraph (2) of this
20 Subsection when proof of the required security is provided to the secretary within
21 sixty days of the date of the notice. If at the time of reinstatement, a person has
22 multiple violations and is within sixty days of the notice, the total amount of fees to
23 be paid shall not exceed ~~eight~~ **five** hundred ~~fifty~~ dollars, for violations of Paragraph
24 (1) ~~of this Subsection, one thousand seventy-five dollars for violations of~~ **or**
25 Paragraph (2) of this Subsection. At no time shall the total amount of fees, including
26 administrative fees, exceed two hundred ~~fifty~~ dollars for persons sixty-five years or
27 older. After ~~sixty~~ **ninety** days of the date of the notice, all fees ~~shall~~ **may** be
28 considered final ~~delinquent debt and therefore owed, and the eight hundred fifty~~
29 ~~dollar limit for persons under sixty-five years shall no longer apply~~ **forwarded to**

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the office of debt recovery after.

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(4) Fees shall be paid to the secretary, who shall remit them to the state treasurer to be credited to the ~~Bond Security and Redemption Fund as provided in R.S. 32:853(B)(2)~~ **state general fund.**

* * *

D.(1) When the secretary seeks to impose the sanctions required in this Section, he shall send written notice to the owner, lessee, or other person against whom sanctions are intended at the last address furnished to the department **as provided in R.S. 32:852(E).** ~~Notwithstanding the provisions of R.S. 32:852(E), such notice may be sent by first class mail. A notice of noncompliance, issued by a law enforcement officer under the provisions of R.S. 32:863.1(C)(1), shall serve as notice to the owner, lessee, or other person. Prior to imposition of such sanctions, a hearing may be requested within ten days from the date of notice. Sanctions shall not be imposed until all rights for appeal have expired or been exhausted.~~

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§863.1. Evidence of compulsory motor vehicle liability security contained in vehicle; enforcement; penalty; fees

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C.(1)(a) If the operator of a motor vehicle is unable to show compliance with the provisions of this Part by displaying the required document when requested to do so, the motor vehicle shall be impounded and the operator shall be issued a notice of noncompliance with the provisions of this Part on a form to be provided by the department **as provided in R.S. 32:852(E).** ~~Notwithstanding the provisions of R.S. 32:852(E), such notice may be sent by first class mail. A copy of the notice of noncompliance shall be provided to the towing or storage company and a copy shall be forwarded to the office of motor vehicles within three calendar days after the notice of noncompliance was served. The notice of noncompliance shall serve as notice of administrative hearings rights. In addition, the law enforcement officer~~

1 shall remove the license plate from the vehicle if the vehicle is registered in
2 Louisiana. The law enforcement officer shall deliver the vehicle license plate to the
3 chief of the agency which employs the officer, or to a person in that agency
4 designated to receive such license plates. In those cases in which a motor vehicle is
5 not impounded, a copy of the notice of noncompliance shall be attached to the
6 vehicle license plate and both shall be delivered to the nearest office of motor
7 vehicles within three calendar days after the notice of noncompliance was served.

8 (b) The owner of the vehicle shall have ~~three~~ **fifteen** calendar days, excluding
9 Saturdays, Sundays, and legal holidays, from the date that the notice of
10 noncompliance was issued to present to the office of motor vehicles proof of
11 insurance coverage or security in effect at the time of the issuance of the notice of
12 noncompliance. If the vehicle was properly insured at the time the notice was issued,
13 any valid license plate shall be returned within forty-eight hours, exclusive of legal
14 holidays, to the owner of the vehicle at no cost to the owner. However, if, within
15 sixty days from the date the notice of noncompliance is issued, the owner fails to
16 provide proof of the fact that the vehicle was properly insured at the time the notice
17 of noncompliance was issued, the chief administrative officer of the office of motor
18 vehicles shall destroy, or shall cause to be destroyed, the license plate removed from
19 that owner's vehicle and shall notify the secretary that the owner of the vehicle is not
20 in compliance with the compulsory liability law. Upon receipt of such notification,
21 the secretary shall revoke the registration of such vehicle. ~~Sixty days after the date~~
22 ~~of issuance of the notice of noncompliance, the fees imposed in this Section shall be~~
23 ~~owed even if the owner subsequently provides proof the motor vehicle was insured,~~
24 ~~and all such fees shall be considered final delinquent debt.~~

25 (c) For a first offense there shall be a reinstatement fee of ~~one hundred~~
26 **twenty-five** dollars, for a second offense there shall be a reinstatement fee of ~~two~~
27 ~~hundred~~ fifty dollars, and for any subsequent offense there shall be a reinstatement
28 fee of five **one** hundred dollars. ~~The reinstatement fee contained herein shall be in~~
29 ~~addition to other appropriate registration fees allowed by law and reinstatement~~

1 administrative hearing shall be ~~in the same manner and under the same conditions~~
2 as provided in ~~R.S. 32:414~~ **R.S. 49:964**. No court shall issue an injunction, stay or
3 other process preventing the enforcement of the sanctions required by this Part
4 pending the hearing provided for in this Part, except as provided by R.S. 49:964.

5 (6) The impounded vehicle shall remain impounded and the registration shall
6 remain suspended until such time as proof of valid insurance is ~~given to the~~
7 ~~Department of Public Safety and Corrections. Notwithstanding any other provision~~
8 ~~of law to the contrary, in no event shall a car be released from impoundment until~~
9 ~~such time as proof, in writing, has been presented from the Department of Public~~
10 ~~Safety and Corrections that all penalties, fees, fines and requirements of this Section~~
11 ~~have been met~~ **and until such time as proof, in writing, is presented to the office**
12 **of motor vehicles that all penalties, fees, and fines have been paid.**

13 (7) In those instances when there is a passenger in the motor vehicle under
14 the age of twelve or when the driver or a passenger in the motor vehicle has a
15 disability or when considering the location and the time of day of the stop, the law
16 enforcement officer perceives that there would be a threat to the public safety or to
17 the occupants in the motor vehicle, such law enforcement officer enforcing the
18 provision of this Section may in lieu of the impoundment provisions of this Section,
19 seize the license plate and issue a temporary sticker valid for ~~three~~ **ten** calendar days,
20 **excluding Saturdays, Sundays, and legal holidays.** Upon expiration of the sticker,
21 the vehicle shall not be driven until the owner has complied with the requirements
22 of this Section. In the event the vehicle is being driven after the expiration of the
23 temporary sticker provided for herein, the vehicle shall be immediately impounded
24 pursuant to the provisions of this Section.

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26 G. The only acceptable means of proof of a valid and current policy of
27 insurance shall be one of the following:

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29 **(5) The law enforcement officer verifies electronically that the motor**

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vehicle is covered by a valid and current policy of liability insurance.

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I. * * *

(3) If the owner fails to provide the proof required in Paragraph (2) of this Subsection, there shall be a fine of ~~one hundred~~ **twenty-five** dollars for a first offense, a fine of ~~two hundred~~ fifty dollars for a second offense, and a fine of ~~five~~ **one** hundred dollars for any subsequent offense.

Section 2. R.S. 32:8(C) and 863(D)(5) are hereby repealed.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

DIGEST

SB 299 Original 2016 Regular Session Milkovich

Present law requires the Dept. of Public Safety and Corrections, office of motor vehicles (OMV), to collect certain fees related to suspension of an operator's license (R.S. 32:57.1) and automobile insurance requirement violations (R.S. 32:863 and 863.1). Further provides that such fees are due within 60 days of the date of the notice to pay these fees and that after 60 days these fees shall be considered final delinquent debt.

Present law requires the office of motor vehicles to refer all final delinquent debt to the office of debt recovery (ODR) for collection.

Proposed law amends present law definitions of "debt", "delinquent debt", and "final debt" to require the OMV to provide written notice for suspension or revocation of driving privileges or motor vehicle registration privileges as provided in R.S. 32:852(E), provides that debt must be 90 days or more past due, and that OMV must have proof of personal receipt of notice by the debtor by official delivery receipt or certificate from the U.S. Postal Service.

Proposed law makes referral of final debt by OMV to the ODR discretionary, requires notice by OMV to include payment arrangements and inform the debtor that he has no right of judicial review if he fails to act on the notice.

Proposed law removes requirement that funds collected must be deposited into the Debt Recovery Fund and utilized for the office of state police in the amount of \$25 million.

Present law authorizes OMV to impose a \$50 fee, regardless of the disposition of a charge of failure to honor a written promise to appear.

Proposed law removes authorization for OMV to impose the fee.

Present law requires the prosecuting authority of a charge of failure to honor a written promise to appear to notify OMV of payment and authorizes OMV to charge an additional \$50 fee to renew or reissue the arrested person's driver's license.

Proposed law reduces the fee to \$25.

Present law provides that after 60 calendar days of notification issued by OMV, fees due shall be considered final delinquent debt.

Proposed law increases the time period to 90 calendar days and gives OMV discretion to consider the debt as final.

Present law authorizes the OMV to collect certain fees associated with automobile insurance requirements (R.S. 32:863 and 863.1).

Proposed law reduces OMV reinstatement fees for no insurance or allowing insurance to lapse from \$100 to \$25 dollars for no insurance from one to 30 days, from \$250 to \$50 for no insurance from 31 to 90 days, and from \$500 to \$100 for no insurance in excess of 90 days.

Proposed law reduces OMV reinstatement fees for submitting false information that a motor vehicle is covered by insurance from \$250 to \$25 for a first violation, from \$500 to \$50 for a second violation, and from \$1,000 to \$100 for a third or subsequent violation.

Present law provides that the maximum reinstatement fee due from a person with multiple violations who pays within 60 days of notice shall not exceed \$850 for no insurance or lapsed insurance violations and \$1,075 for submission of false insurance information. Provides that total fees for persons 65 years or older shall not exceed \$250.

Proposed law reduces the maximum reinstatement fee from \$850 to \$500 and changes the time period from 60 to 90 days of date of notice before a fee is considered final debt. Proposed law removes the provision that removes the cap on fees for persons under 65 years of age and reduces the cap on total fees for persons 65 or older from \$250 to \$200.

Present law requires OMV to remit fees paid to the treasurer for credit to the Bond Security and Redemption Fund.

Proposed law requires the treasurer to credit fees to the state general fund.

Present law authorizes OMV to send notice of sanctions to the last address furnished to the OMV by first class mail.

Proposed law requires OMV to send notice of fines, fees, or other sanctions by certified or registered mail, return receipt requested.

Present law provides the owner of a vehicle three calendar days, excluding weekend days and legal holidays, to provide proof of insurance. Provides that if proof of compliance is made after 60 days, an owner still owes a fee even if the owner provides proof of insurance. Provides that a no insurance sticker is valid for only three days.

Proposed law increases the time period from three to 15 calendar days and deletes the provisions relative to proof of insurance after 60 days.

Present law provides that OMV records on a insurance violation are prima facie proof of violation.

Proposed law deletes present law and retains present law that owner has burden of proof of insurance at the time of violation.

Present law makes an owner liable for storage and wrecker fees when a vehicle is impounded for no proof of insurance in the vehicle even if the vehicle was actually insured at the time.

Proposed law makes OMV liable for storage and wrecker fees if the vehicle was actually insured.

Present law provides several acceptable means of proof of insurance including an insurance card or electronic image, and that a law enforcement making a stop has a reasonable belief that the motor vehicle is covered by a valid and current policy of liability insurance.

Proposed law retains present law and adds as an acceptable means of proof of insurance that the law enforcement officer electronically verifies that the motor vehicle is covered by a valid and current policy of liability insurance.

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

(Amends R.S. 32:8(A)(1), (2), and (3), and (B), 57.1, 863(A)(3)(a) and (4), and (D)(1), 863.1(C)(1), (2), (5), (6), and (7), and (I)(3); adds R.S. 32:863.1(G)(5); repeals R.S. 32:8(C) and 863(D)(5))