

2021 Regular Session

# ACT No. 357

HOUSE BILL NO. 701 (Substitute for House Bill 636 by Representative Pierre)

BY REPRESENTATIVE PIERRE

1 AN ACT

2 To enact R.S. 32:57.3 and R.S. 47:820.5.9, relative to the Department of Transportation and  
3 Development's authority over high-occupancy vehicle lanes on state highways; to  
4 establish a high-occupancy vehicle; to provide for violations; to provide for  
5 definitions; to provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 32:57.3 is hereby enacted to read as follows:

8 §57.3. Failure to respond to an HOV violation

9 A.(1) When the office of motor vehicles receives notice from the Department  
10 of Transportation and Development to not renew or reissue the driver's license or  
11 vehicle registration of a frequent violator as provided in R.S. 47:820.5.9(J)(2), the  
12 office of motor vehicles shall issue a notice to the violator at the address listed on the  
13 violator's driver's license, unless a more current address is on file, that shall identify  
14 the vehicle or vehicles subject to HOV violations by vehicle identification number  
15 and the assigned license plate number. The notice shall also advise the registered  
16 owner that his registration privileges and driver's license will be blocked against  
17 renewal or reissuance, including any request for a duplicate registration or driver's  
18 license. The office of motor vehicles shall obtain a certificate of mailing at the time  
19 the notice is mailed to the frequent violator.

20 (2) The notice shall also state that the person shall pay a reinstatement fee to  
21 the office of motor vehicles in addition to providing proof of compliance from the  
22 Department of Transportation and Development to remove the block against renewal  
23 or reissuance, including any request for a duplicate registration or driver's license.

1                   (3) The reinstatement fee due under this Section shall be one hundred  
 2                   dollars.

3                   B. The Department of Transportation and Development shall provide the  
 4                   complete record on all violations of the frequent violator including all notices,  
 5                   evidence, or other records used in determining the violation or conducting any  
 6                   hearing or appeal.

7                   Section 2. R.S. 47:820.5.9 is hereby enacted to read as follows:

8                   §820.5.9. High-occupancy vehicle (HOV) lane violations

9                   A. The secretary of the Department of Transportation and Development is  
 10                  authorized to maintain the peace and accomplish the orderly handling of the  
 11                  establishment of high-occupancy vehicle (HOV) lanes, subject to the provisions of  
 12                  this Section.

13                  B. Terms as defined in R.S. 48:345 and R.S. 32:1 shall retain their  
 14                  definitions, unless such term or terms are specifically defined in this Subsection. As  
 15                  used in this Section, unless the context indicates otherwise, the following terms shall  
 16                  have the following meanings:

17                  (1) "Department" means the Department of Transportation and  
 18                  Development.

19                  (2) "Electronic mail" means a message, file, or other information that is  
 20                  transmitted through a local, regional, or global computer network.

21                  (3) "Electronic mail address" means a destination, commonly expressed as  
 22                  a string of characters, to which electronic mail may be sent or delivered.

23                  (4) "HOV monitoring system" means equipment installed for use with a  
 24                  designated HOV lane to automatically produce records for use in enforcing the  
 25                  provisions of this Section, such as video recordings, photographs, or other electronic  
 26                  data sufficient to establish the existence of an HOV violation and identifying  
 27                  information for the motor vehicle involved.

28                  (5) "HOV violation" means use of an HOV lane in a manner not authorized  
 29                  by this Section or any regulation promulgated pursuant to this Section.

30                  (6) "Registered owner" means a person in whose name a motor vehicle is

1 registered under the law of a jurisdiction, including a person issued a dealer or  
2 transporter registration plate or a lessor of motor vehicles for public lease.

3 (7) "Qualified HOV" means an HOV or motorcycle that meets all  
4 requirements for use of a designated HOV lane.

5 C. Any travel lane designated as an HOV lane shall be for the exclusive use  
6 of qualified HOVs.

7 D. The department may establish permitting requirements for motor vehicles  
8 on one or more designated HOV lanes, including registration of the HOV with the  
9 department, prior to using an HOV lane. A motor vehicle that has not fulfilled  
10 applicable permitting requirements established by the department shall not be  
11 considered a qualified HOV.

12 E. Where a record generated by an HOV monitoring system shows an HOV  
13 violation by a motor vehicle, the vehicle's registered owner shall be liable to make  
14 payment to the department of the applicable penalty and administrative fee of  
15 twenty-five dollars to recover the cost of collecting the penalty subject to the  
16 provisions of this Section.

17 F. The penalty for an HOV violation shall be a fine of not more than one  
18 hundred dollars. The department may establish increasing penalties for multiple  
19 HOV violations, but in no instance shall any penalty for a single HOV violation  
20 imposed pursuant to this Section exceed one hundred dollars.

21 G. The ownership status of the motor vehicle is prima facie evidence of  
22 liability. However, the registered owner may rebut the prima facie evidence by  
23 providing proof that the vehicle was sold, or otherwise transferred prior to the HOV  
24 violation, by providing a copy of a police report indicating the motor vehicle was  
25 stolen prior to the HOV violation, or other evidence sufficient to rebut the prima  
26 facie evidence.

27 H. For the purpose of educating the public and promoting proper use of HOV  
28 lanes, the department shall promulgate rules and regulations governing the issuance  
29 of warning letters in lieu of HOV violation notices in appropriate circumstances not  
30 involving frequent violators. Warning letters shall provide the information required

1           for HOV violation notices, but shall not result in the assessment of penalties or fees  
2           against the registered owner.

3           I. The following procedures shall apply to the collection of penalties,  
4           administrative fees, and late charges assessed pursuant to this Section:

5           (1) The department shall send notice of an HOV violation by first-class mail  
6           to the registered owner of the motor vehicle at the address shown on the records of  
7           the Department of Public Safety and Corrections, office of motor vehicles, or such  
8           other address as may be provided by the owner or determined through other reliable  
9           means. The department may aggregate multiple HOV violations in one HOV  
10          violation notice. A manual or automatic record of the mailing prepared in the  
11          ordinary course of business of the department is prima facie evidence of the mailing  
12          of the notice.

13          (2) The HOV violation notice shall include the name and address of the  
14          person alleged to be liable as a registered owner for the HOV violation, the amount  
15          of the penalty to be paid, identifying information for the motor vehicle involved, the  
16          date and approximate time of the HOV violation, the administrative fees due, an  
17          electronic mail address and physical or post office box mailing address to which an  
18          appeal may be sent, and any other information as the department may deem  
19          appropriate.

20          (3) The violation notice shall also include a warning that the registered  
21          owner shall either pay the penalty and administrative fees specified in the notice or  
22          appeal the HOV violation by making a request for a hearing to the department within  
23          thirty days after issuance and describe the means and content of the response for  
24          payment or appeal. The HOV violation notice shall also include a statement  
25          notifying the registered owner that he may waive his right to a hearing by notifying  
26          the department that he is waiving this right and appealing the HOV violation by  
27          request for a written disposition. The failure of the registered owner to appeal the  
28          violation in one of the manners provided and within the delays allowed shall be  
29          deemed to be an admission of liability and a waiver of available defenses.

30          (4) Within thirty calendar days after the date of issuance of the HOV

1 violation notice, the registered owner to whom the HOV violation notice is issued  
2 shall either pay the penalties and administrative fees or appeal the HOV violation as  
3 provided by this Section.

4 (5) The registered owner may, without waiving judicial review, appeal an  
5 HOV violation by notifying the department in writing, by either regular mail or  
6 electronic mail, that he is waiving the right to a hearing and requesting a review and  
7 written disposition of the HOV violation from a department violation clerk by  
8 regular mail or electronic mail.

9 (a) This appeal shall contain a signed statement from the registered owner  
10 explaining the basis for the appeal. The signed statement shall be accompanied by  
11 signed statements from witnesses, police officers, government officials, or other  
12 relevant parties or photographs, diagrams, maps, or other relevant documents  
13 submitted by the registered owner.

14 (b) Statements or materials sent to a violation clerk for review shall have  
15 attached to them the name, address, and electronic mail address of the registered  
16 owner as well as the number of the HOV violation notice and the date of the HOV  
17 violation. All information submitted by the registered owner shall become part of  
18 the violation record.

19 (c) The violation clerk shall, within sixty days of receipt of such material,  
20 review the material and dismiss or uphold the HOV violation and notify the  
21 registered owner of the disposition of the HOV violation in writing by regular mail  
22 or electronic mail. If the appeal by request for written disposition is denied, the  
23 violation clerk shall explain the reasons for the determination.

24 (d) The violation clerk shall have the authority to waive the administrative  
25 fee, in whole or in part, for good cause shown.

26 (6) A registered owner that is issued an HOV violation notice may make a  
27 written statement for an appeal hearing before an agent designated by the  
28 department. The violation clerk shall, within thirty days of receipt of a request for  
29 an appeal, notify the registered owner in writing by first-class mail of the date, time,  
30 and place of the hearing.

1           (a) The hearing shall be informal and may be conducted by telephone. The  
2           rules of evidence and the Administrative Procedure Act shall not apply. The  
3           decision of the agent shall be final, subject to judicial review. The parties to the  
4           appeal hearing shall be notified, in person or by regular mail or electronic mail, of  
5           the decision following the hearing.

6           (b) Each written appeal decision shall contain a statement of reasons for the  
7           decision, including a determination of each issue of fact necessary to the decision.  
8           Failure to appear at the date, time, and place specified on the hearing notice shall  
9           automatically result in denial of the appeal.

10           (7) Electronic mail sent by the registered owner to the address provided in  
11           the HOV violation notice shall be presumptive evidence of receipt by the  
12           department. Electronic mail sent by the department to the address provided by the  
13           registered owner shall be presumptive evidence of receipt by the registered owner.

14           J.(1) The department may impose charges and sanctions against a registered  
15           owner for late payment, failure to pay, or otherwise failing to respond to an HOV  
16           violation notice as follows:

17           (a) A registered owner who fails to submit payment or otherwise respond to  
18           an HOV violation notice as provided by in this Section within thirty calendar days  
19           after the date of the issuance of the HOV violation notice may incur a late charge of  
20           five dollars to cover additional costs of collection of the penalty.

21           (b) If the registered owner fails to submit payment or otherwise respond to  
22           an HOV violation notice as provided by this Section within sixty calendar days after  
23           the date of issuance of the violation notice, the department may pursue civil action  
24           against the registered owner as it deems appropriate to collect the penalties and  
25           administrative fees assessed in the HOV violation notice. The violation clerk shall  
26           notify the registered owner by first-class mail of this delinquency and consequences  
27           of the delinquency.

28           (2)(a) In addition to the procedures described above, the department shall  
29           promulgate rules and regulations for the identification of motor vehicles that  
30           frequently engage in HOV violations and for providing notice to registered owners

1 of motor vehicles meeting such criteria as established by the department. A  
2 registered owner's appeal of his classification as a frequent violator shall be  
3 conducted in the same manner as an appeal of an HOV violation, but the provisions  
4 of the Administrative Procedure Act shall apply in regards to notice of the hearing  
5 decision, any request for rehearing, and any petition for judicial review. Any  
6 registered owner of a motor vehicle classified by the department as a frequent  
7 violator who fails to submit payment or otherwise respond to an HOV violation  
8 notice as provided by this Section, within sixty calendar days after the date of  
9 issuance of the notice of classification as a frequent violator is issued, shall be  
10 prohibited from any renewal or reissuance of his driver's license and the vehicle's  
11 registration until after all matters regarding HOV violations have been disposed of  
12 in accordance with law.

13 (b) The violation clerk shall notify the office of motor vehicles of the  
14 registered owner's delinquency and status as a frequent violator. Upon notice from  
15 a violation clerk, the office of motor vehicles shall block the renewal or reissuance,  
16 including any duplicates, of the violator's driver's license and vehicle registration  
17 pursuant to R.S. 32:57.3.

18 (3) A video recording, photograph, or other electronic data produced by an  
19 HOV monitoring system shall be admissible in a proceeding to collect a penalty,  
20 administrative fee, or other charge of the department for an HOV violation.

21 (4) An original or facsimile of a certificate, sworn to or affirmed by an agent  
22 of the department that specifies that an HOV violation has occurred and is based  
23 upon a personal inspection of a video recording, photograph, or other electronic data  
24 produced by an HOV monitoring system, as defined in this Section, is prima facie  
25 evidence of the facts contained in the certificate.

26 (5) Notwithstanding any other provision of law to the contrary, a video  
27 recording, photograph, or other electronic data prepared for enforcement of HOV  
28 lane requirements shall be exclusively for the use of the department and the office  
29 of motor vehicles in the discharge of their duties under this Section.

30 K. The department shall from time to time designate one or more violation

1 clerks and agents to perform the functions specified in this Section at the discretion  
 2 of the department and for such time as shall be necessary. The department shall  
 3 supervise and coordinate the processing of an HOV violation notice in accordance  
 4 with this Section. The department may hire or designate such personnel and  
 5 organize such sections as the department may deem necessary, or contract for such  
 6 services, in order to carry out the provisions of this Section. Hearing agents and  
 7 violation clerks shall have the authority to waive late fees, in whole or in part, in  
 8 accordance with standards established by the department.

9 L. The provisions of this Section are intended to supplement the laws  
 10 governing motor vehicles and traffic regulation appearing in Title 32 of the  
 11 Louisiana Revised Statutes of 1950, and nothing contained in this Section shall be  
 12 construed as precluding any police officer from enforcing these laws within a  
 13 designated HOV lane. It shall be a defense to enforcement by the department  
 14 pursuant to this Section that the registered owner of the motor vehicle received a  
 15 citation from a law enforcement officer for the same conduct that resulted in an HOV  
 16 violation.

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_