

2022 Regular Session

HOUSE BILL NO. 750

BY REPRESENTATIVE BISHOP

ENVIRONMENT/LITTERING: Provides for the prosecution of certain littering violations by the Department of Wildlife and Fisheries

1 AN ACT

2 To amend and reenact R.S. 30:2531(C), 2531.3(G), 2531.5(B) and (D), and 2532(A) and
3 R.S. 56:32.1(A) and (B), relative to fines and court costs for littering violations; to
4 provide for the prosecution of civil littering violations cited by the Department of
5 Wildlife and Fisheries; to specify civil procedure for simple and commercial littering
6 violations; to provide for special court costs for littering violations; to provide for the
7 distribution of littering fines and special court costs; to authorize civil actions and
8 adjudicatory hearings for littering violations prosecuted by the Department of
9 Wildlife and Fisheries; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 30:2531(C), 2531.3(G), 2531.5(B) and (D), and 2532(A) are hereby
12 amended and reenacted to read as follows:

13 §2531. Intentional littering prohibited; criminal penalties; simple littering
14 prohibited; civil penalties; special court costs

15 * * *

16 C. Whoever violates the provisions of this Section shall pay special court
17 costs of one hundred dollars in lieu of other costs of court and the special court costs
18 shall be disbursed as follows:

19 (1) For simple littering violations cited and prosecuted by the Department
20 of Wildlife and Fisheries:

1 (a) Seventy-five dollars shall be paid to the state treasury for credit to the
2 Conservation Fund.

3 (b) Twenty-five dollars shall be paid to the state treasury for credit to the
4 Litter Abatement and Education Account.

5 (2) For all other violations:

6 (a) Twenty dollars shall be paid to the judicial expense fund for that judicial
7 district, or to the justice of the peace or the city court, as the case may be.

8 ~~(2)~~(b) Twenty dollars shall be paid to the office of the district attorney, to the
9 constable, or to the municipal prosecuting attorney, as the case may be.

10 ~~(3)~~(c) Ten dollars shall be paid to the clerk of the district court, or to the
11 justice of the peace or the city court, as the case may be.

12 ~~(4)~~(d) Twenty-five dollars shall be paid to the state treasury for credit to the
13 Litter Abatement and Education Account.

14 ~~(5)~~(e) Twenty-five dollars shall be paid to the law enforcement agency that
15 issued the citation.

16 * * *

17 §2531.3. Commercial littering prohibited; civil penalties; indemnification; special
18 court costs

19 * * *

20 G.(1) Any person found liable under the provisions of this Section shall pay
21 special court costs of fifty dollars in lieu of other costs of court which shall be
22 disbursed as follows:

23 ~~(1)~~(a) Twenty dollars shall be paid to the judicial expense fund for that
24 judicial district, or to the justice of the peace or the city court, as the case may be.

25 ~~(2)~~(b) Twenty dollars shall be paid to the office of the district attorney, or
26 to the constable or to the municipal prosecuting attorney, as the case may be.

27 ~~(3)~~(c) Ten dollars shall be paid to the clerk of the district court, or to the
28 justice of the peace or the city court, as the case may be.

1 (2) Notwithstanding the provisions of this Subsection, persons cited and
 2 prosecuted for commercial littering violations under this Section by the Department
 3 of Wildlife and Fisheries shall be subject to court costs and fees as provided pursuant
 4 to R.S. 56:32.1 rather than pay the special court costs provided for in this Subsection.

5 * * *

6 §2531.5. Legal enforcement; penalties; payment by mail or credit card

7 * * *

8 B. Civil violations under the provisions of this Part shall be prosecuted by
 9 the district attorney of the judicial district in which the violation occurred, the
 10 prosecuting attorney for a municipality having a city court within the municipality
 11 in which the violation occurred, ~~or~~ the constable, if filed in justice of the peace court,
 12 or the prosecuting attorney for the Department of Wildlife and Fisheries for citations
 13 issued by that department.

14 * * *

15 D. An action brought pursuant to R.S. 30:2531(B) or 2531.3 shall be tried
 16 as a summary proceeding pursuant to Code of Civil Procedure Article 2591 et seq.,
 17 except that such actions prosecuted by the Department of Wildlife and Fisheries may
 18 be tried in accordance with R.S. 56:32.1.

19 * * *

20 §2532. Collection and distribution of fines; litter abatement and education account

21 A. All fines collected under the provisions of this Part shall be payable as
 22 follows:

23 (1) Civil fines recovered by the Department of Wildlife and Fisheries for
 24 citations issued by that department shall be deposited into the Conservation Fund.

25 (2) For all other fines:

26 (a) Twenty-five percent shall be paid to the law enforcement agency issuing
 27 the citation.

28 (2)(a)(b)(i) Fifty percent shall be paid to the law enforcement agency issuing
 29 the citation that shall transfer the funds to the retirement system of such law

1 enforcement agency prior to the close of the fiscal year in which the fine was
2 collected. The funds shall be applied to the oldest outstanding positive amortization
3 base of the retirement system without reamortization of such base until all such bases
4 are liquidated.

5 ~~(b)~~(ii) Upon liquidation of all positive amortization bases for the applicable
6 retirement system, the amount remitted shall be added to the general funds of the
7 retirement system until a new positive amortization base is created. Upon creation
8 of a new positive amortization base, the fines collection shall be distributed in the
9 manner prescribed in Subparagraph (a) of this Paragraph.

10 ~~(3)~~~~(a)~~(c)(i) Fifteen percent shall be paid to the sheriff of the parish, the parish
11 governing authority, or the municipality where the violation occurred if a community
12 service litter abatement program has been established pursuant to R.S. 30:2531.4.

13 ~~(b)~~(ii) When the law is enforced by a justice of the peace court, then fifteen
14 percent shall be paid to the parish governing authority for reimbursement of expenses
15 of the justice of the peace court.

16 ~~(4)~~(d) Five percent shall be paid to the office of the district attorney of the
17 judicial district where the violations occurred, or if prosecuted in a justice of the
18 peace court or a city court, then to the parish governing authority for reimbursement
19 of expenses of the constable or to the municipality, as the case may be.

20 ~~(5)~~(e) The remainder shall be paid to the state treasury for credit to the litter
21 abatement and education account.

22 * * *

23 Section 2. R.S. 56:32.1(A) and (B) are hereby amended and reenacted to read as
24 follows:

25 §32.1. Civil suit for recovery of value

26 A. The department is authorized to bring a civil action to recover the
27 penalties established by R.S. 56:31 and 32 and R.S. 30:2531(B) and 2531.3.

28 B. The department may elect to enforce the provisions of R.S. 56:31 and 32
29 and R.S. 30:2531(B) and 2531.3 by adjudicatory hearing held in accordance with the

1 provisions of the Administrative Procedure Act. The department shall hold the
 2 adjudicatory hearing in the regional office for the parish where the defendant is
 3 domiciled or where the violation occurred. The defendant may waive the
 4 adjudicatory hearing upon payment of the fine.

5 * * *

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)]

HB 750 Engrossed 2022 Regular Session Bishop

Abstract: Authorizes the Dept. of Wildlife and Fisheries to prosecute simple and commercial littering violations through civil action or adjudicatory hearing and redistributes the fines and special court costs paid for littering violations cited and prosecuted by the department.

Present law imposes special court costs in lieu of any other court costs for intentional and simple littering violations and requires that the costs paid be distributed between the court, the prosecuting attorney, law enforcement agencies, and the Litter Abatement and Education Account.

Proposed law retains present law special court costs, but provides that for simple littering violations issued by Dept. of Wildlife and Fisheries agents and prosecuted by the department, the costs paid will be distributed between the department and the Litter Abatement and Education Account only.

Present law imposes special court costs in lieu of any other court costs for commercial littering violations and specifies how those costs are distributed among the courts and prosecuting attorneys involved.

Proposed law retains the special court costs in present law, but exempts commercial littering violations prosecuted by the Dept. of Wildlife and Fisheries from the payment of these special court costs and specifies the imposition of ordinary costs and fees for department civil actions and adjudicatory hearings.

Present law specifies that civil littering violations will be prosecuted by certain prosecuting attorneys for district, municipal, and justice of the peace courts.

Proposed law retains present law and adds the prosecuting attorney for the Dept. of Wildlife and Fisheries to the list of prosecutors.

Present law requires that all actions for simple and commercial littering violations be tried by summary proceedings in court.

Proposed law provides an exception to present law for cases prosecuted by the department under the Dept.'s specific provisions for civil actions and adjudicatory hearings.

Present law specifies how all civil fines collected from littering violations will be distributed among law enforcement agencies, law enforcement retirement systems, local government entities, certain courts and prosecutors, and the litter abatement and education account.

Proposed law retains present law, but removes civil fines collected from littering violations cited and prosecuted by the Dept. of Wildlife and Fisheries from the distribution provided present law and directs these fines to the Conservation Fund instead.

Present law authorizes the Dept. of Wildlife and Fisheries to enforce and recover penalties for certain wildlife violations through civil actions or administrative hearings.

Proposed law retains present law and adds simple and commercial littering violations to those which the department may try by civil action or administrative hearing for the recovery of penalties.

(Amends R.S. 30:2531(C), 2531.3(G), 2531.5(B) and (D), and 2532(A) and R.S. 56:32.1(A) and (B))